Health & Families Council

Tuesday, April 25, 2006
9:00 AM – 10:00 AM
Reed Hall

Meeting Packet

Allan G. Bense
Speaker

Anna Holliday "Holly" Benson
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Health & Families Council

Start Date and Time:	Tuesday, April 25, 2006 09:00 am
End Date and Time:	Tuesday, April 25, 2006 10:00 am
Location:	Reed Hall (102 HOB)
Duration:	1.00 hrs

Consideration of the following bill(s):

HB 241 CS Florida KidCare Program by Vana
HB 457 CS Guardianship by Sands
HB 459 Public Records by Sands
HB 569 CS Athletic Trainers by Kreegel
HB 577 CS Medicaid Comprehensive Geriatric Fall Prevention Program by Garcia
HB 619 CS Substance Abuse and Mental Health Services by Gibson, H.
HB 1623 CS Youth and Young Adults with Disabilities by Bean
HB 7173 CS Welfare of Children by Future of Florida's Families Committee
HB 7215 Rural Health Care by Health Care Regulation Committee

NOTICE FINALIZED on 04/24/2006 16:11 by ISEMINGER.BOBBYE

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 241 CS Florida KidCare Program
SPONSOR(S): Vana and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 972

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care General Committee	8 Y, 0 N, w/CS	Brown-Barrios	Brown-Barrios
2) Health Care Appropriations Committee	15 Y, 0 N	Speir	Massengale
3) Fiscal Council	23 Y, 0 N	Speir	Kelly
4) Health & Families Council		Brown-Barrios	Moore
5)			

SUMMARY ANALYSIS

The Florida KidCare Program was created in 1998 to provide health benefits to uninsured children through the State Children's Health Insurance Program (SCHIP) or Medicaid. KidCare has four program components: Medicaid, Medikids, Florida Healthy Kids, and the Children's Medical Services (CMS) Network. Participation by children in these components is contingent on age, family income, and special health care needs.

House Bill 241 CS amends section 409.814, Florida Statutes, to allow a child ineligible to participate in the Medikids or Florida Healthy Kids components to participate if the family pays the full premium without any premium assistance. These children are known as "full-pays."

The bill requires the Agency for Health Care Administration to begin enrollment of full-pays by July 1, 2006.

The bill has no fiscal impact on state or local government.

If enacted, the bill takes effect July 1, 2006.

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families—The bill creates an opportunity for certain families to secure health insurance coverage for their children.

B. EFFECT OF PROPOSED CHANGES:

This bill amends s. 409.814 (5) to state that full-pays may participate in Medikids or the Florida Healthy Kids program. This eliminates the possibility for children to participate in the CMS network as a full-pay, although there has never been a full-pay in the CMS network because of the premium that a family would have to pay.

The Florida Healthy Kids program, which serves children ages 5 -18, is the only component that has enrolled full-pays. The Agency for Health Care Administration administers the Medikids component that serves children ages 1 – 4, and they have chosen not to enroll any children as full-pays.

This has led to a situation where children from the same family are treated differently. The family can purchase health insurance for their child who is old enough for the Florida Healthy Kids program but not for their child who is in the Medikids age group. This bill requires AHCA to begin enrolling full-pays by July 1, 2006.

BACKGROUND

The Florida KidCare Program

The State Children's Health Insurance Program (SCHIP) under Title XXI of the Social Security Act is a Federal/State partnership which provides insurance to uninsured children under age 19 whose family income is above Medicaid limits but at or below 200 percent of the FPL. Under SCHIP, the Federal government provides a capped amount of funds to States on a matching basis[1]. SCHIP expands insurance coverage for low-income children who do not qualify for Medicaid. Florida's SCHIP eligible children are served in the Florida KidCare Program.

Medicaid under Title XIX of the Social Security Act is a Federal/State entitlement program that pays for medical assistance for certain individuals and families with low incomes and resources.

Florida KidCare was created in 1998 to provide health benefits to uninsured children through either SCHIP or Medicaid. The statutory framework for KidCare is delineated in sections 409.810 through 409.821, F.S. KidCare has four components each with its own eligibility standards:

- Medicaid:
  - Birth to age 1, with family incomes up to 200 percent of the FPL.
  - Ages 1 through 5, with family incomes up to 133 percent of the FPL.
  - Ages 6 through 18, with family incomes up to 100 percent of the FPL.
  - Ages 19 through 20, with family incomes up to 24 percent of the FPL.
- Medikids:
  - Children ages 1 through 4 with family incomes above 133 percent to 200 percent of the FPL.
- Healthy Kids:
  - Children age 5, with family incomes above 133 percent to 200 percent of the FPL.

[1] The federal allocation for FY 05/06 is $249,329,871 and the federal matching rate is 71.22%.

- Children age 6 through 18, with family incomes above 100 percent to 200 percent of the FPL.
- A limited number of children who have family incomes over 200 percent of the FPL are enrolled in the unsubsidized full-pay option in which the family pays the entire cost of the premium, including administrative costs.

- Children's Medical Services (CMS) Network:
  - Children ages birth through age 18 who have serious health care problems. For Title XXI-funded eligible children with special health care needs, the CMS Network receives a capitation payment from the Agency for Health Care Administration to provide services for them. For children who do not qualify for Title XIX or Title XXI-funded coverage, services are limited and subject to the availability of funds.

2006 Federal Poverty Level

Persons in Family or Household	100%	200%
1	$ 9,800	19,600
2	13,200	26,400
3	16,600	33,200
4	20,000	40,000
5	23,400	46,800

The Agency for Health Care Administration (AHCA) administers Medicaid and Medikids. AHCA is also the lead State agency for the federally funded portion of the KidCare program. The Florida Healthy Kids Corporation (FHKC), under contract with AHCA, administers the Healthy Kids component. FHKC responsibilities include eligibility determination, collection of premiums, contracting with authorized insurers, and the development of benefit packages. CMS is under the Department of Health and administers the CMS Network. For Title XXI-funded children with special health care needs, the CMS Network receives a capitation payment from the Agency for Health Care Administration of approximately $518.00 per child, per month. Children's Medical Services also administers a state-funded "Safety Net" program for children who do not qualify for Title XIX- or Title XXI-funded coverage, but services are limited and subject to the availability of funds.

Section 409.814(5), F.S., allows a child whose family income is above 200 percent of the FPL or a child who is not eligible for premium assistance as delineated in statute[2] to participate in Medikids and Healthy Kids if the family pays the full premium without any premium assistance. In practice, only Healthy Kids has enrolled children from these families. The Healthy Kids full-pay premium is $110 per child per month. Medikids has not enrolled children from these families. Current law limits the participation of families with income above 200 percent of the FPL to no more than 10 percent of total enrollees in the Medikids or Healthy Kids program in order to avoid adverse selection[3]. Section 409.814(5), F.S., excludes the Medicaid component of KidCare from the full-pay provision.

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[2]Section 409.814(4), F.S., also excludes from premium assistance under KidCare the following children unless they are eligible for Medicaid:
(a) A child who is eligible for coverage under a state health benefit plan on the basis of a family member's employment with a public agency in the state.
(b) A child who is currently eligible for or covered under a family member's group health benefit plan or under other employer health insurance coverage, excluding coverage provided under the Florida Healthy Kids Corporation as established under s. 624.91, provided that the cost of the child's participation is not greater than 5 percent of the family's income. This provision shall be applied during redetermination for children who were enrolled prior to July 1, 2004. These enrollees shall have 6 months of eligibility following redetermination to allow for a transition to the other health benefit plan.
(c) A child who is seeking premium assistance for the Florida KidCare program through employer-sponsored group coverage, if the child has been covered by the same employer's group coverage during the 6 months prior to the family's submitting an application for determination of eligibility under the program.
(d) A child who is an alien, but who does not meet the definition of qualified alien, in the United States.
(e) A child who is an inmate of a public institution or a patient in an institution for mental diseases.
(f) A child who has had his or her coverage in an employer-sponsored health benefit plan voluntarily canceled in the last 6 months, except those children who were on the waiting list prior to March 12, 2004.
(g) A child who is otherwise eligible for KidCare and who has a preexisting condition that prevents coverage under another insurance plan as described in paragraph (b) which would have disqualified the child for KidCare if the child were able to enroll in the plan shall be eligible for KidCare coverage when enrollment is possible.

[3] Adverse selection occurs when too many children who are likely to incur high medical cost join the same health insurance plan. Adverse selection can cause what insurers refer to as a "death spiral". As more sick children join, the health insurance plan must raise premiums to cover cost. As premiums increase, families with healthier children leave to join less costly plans. The plan is left with only sick children and has difficulty spreading risk to cover their cost and ultimately may fail.

The differences in the eligibility criteria and ability to offer a full-pay premium option for families with incomes above 200 percent of FPL, has created the potential for confusion. Families may find that they can insure one child but not the other.

Summary of Current KidCare Full-Pay Option

Florida KidCare	Children from families with incomes above 200% of FPL or not eligible for premium assistance allowed to participate.	Children from families above 200% of FPL or not eligible for premium assistance actually participating in program.
Medicaid	No	N/A
Medikids	Yes	No
Healthy Kids	Yes	Yes
CMS Network	Unclear	No

C. SECTION DIRECTORY:

Section 1. Amends subsection (5) of section 409.814, F.S.

Section 2. Requires the Agency for Health Care Administration to begin enrolling full-pays by July 1, 2006.

Section 3. Establishes an effective date for the act of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Health care providers, including health maintenance organizations, which arrange most of the health services for children enrolled in Medikids, should realize an increase in revenue as a result of increased enrollment by families that are willing to pay the full premium.

Children with families above 200 percent of the FPL or who are not otherwise eligible for premium assistance must pay the full premium, including administrative costs, without any premium assistance to participate in Medikids or Healthy Kids.

D. FISCAL COMMENTS:

AHCA would need to obtain actuarial services to calculate an appropriate Medikids premium for the full-pay option that would support the cost of services, reinsurance, and other administrative costs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Sufficient rulemaking authority exists to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 22, 2006, the Health Care General Committee adopted one amendment to the bill. The amendment:

- Amends s. 409.814, F.S., to allow a family with a child who is not eligible for the Medikids or Healthy Kids program because the family income is above 200 percent of the Federal Poverty Level (FPL) or because the child is not eligible for other reasons delineated in statute to participate in these programs, if the family pays the full premium without any premium assistance.
- Requires AHCA to begin enrollment of children from families with income above 200 percent of the FPL or children not eligible for premium assistance in Medikids by July 1, 2006.

As amended, the bill was reported favorably as a committee substitute.

This analysis reflects the bill as amended.

CHAMBER ACTION

The Health Care General Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Florida KidCare program; amending s. 409.814, F.S.; providing for certain children who are ineligible to participate in the Florida KidCare program to be eligible for the Medikids program or the Florida Healthy Kids program; requiring that the Agency for Health Care Administration begin enrollment under the revised program criteria by a specified date; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 409.814, Florida Statutes, is amended to read:

409.814 Eligibility.--A child who has not reached 19 years of age whose family income is equal to or below 200 percent of the federal poverty level is eligible for the Florida KidCare program as provided in this section. For enrollment in the Children's Medical Services Network, a complete application

includes the medical or behavioral health screening. If, subsequently, an individual is determined to be ineligible for coverage, he or she must immediately be disenrolled from the respective Florida KidCare program component.

(5) A child whose family income is above 200 percent of the federal poverty level or a child who is excluded under the provisions of subsection (4) may participate in the Medikids program as provided in s. 409.8132 or, if the child is ineligible for Medikids by reason of age, in the Florida Healthy Kids program ~~Florida KidCare program~~, ~~excluding the Medicaid program, but is~~ subject to the following provisions:

(a) The family is not eligible for premium assistance payments and must pay the full cost of the premium, including any administrative costs.

(b) The agency is authorized to place limits on enrollment in Medikids by these children in order to avoid adverse selection. The number of children participating in Medikids whose family income exceeds 200 percent of the federal poverty level must not exceed 10 percent of total enrollees in the Medikids program.

(c) The board of directors of the Florida Healthy Kids Corporation is authorized to place limits on enrollment of these children in order to avoid adverse selection. In addition, the board is authorized to offer a reduced benefit package to these children in order to limit program costs for such families. The number of children participating in the Florida Healthy Kids program whose family income exceeds 200 percent of the federal

poverty level must not exceed 10 percent of total enrollees in the Florida Healthy Kids program.

(d) Children described in this subsection are not counted in the annual enrollment ceiling for the Florida KidCare program.

Section 2. The Agency for Health Care Administration shall begin enrollment under s. 409.814(5), Florida Statutes, as amended by this act, by July 1, 2006.

Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 457 CS Guardianship
SPONSOR(S): Sands and Others
TIED BILLS: HB 459 **IDEN./SIM. BILLS:** CS/CS/SB 472

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families Committee	7 Y, 0 N, w/CS	Preston	Collins
2) Civil Justice Committee	7 Y, 0 N, w/CS	Shaddock	Bond
3) Judiciary Appropriations Committee	(W/D)		
4) Health & Families Council		Preston	Moore
5)			

SUMMARY ANALYSIS

HB 457 CS incorporates the recommendations of the 2003 Guardianship Task Force, the Florida State Guardianship Association, the Statewide Public Guardianship Office, and the State Long-term Care Ombudsman Program within the Department of Elderly Affairs (DOEA). Provisions of the bill address:

- Creating definitions for the terms "audit" and "surrogate guardian," and amending the definition of the term "professional guardian."
- Increasing the dollar threshold required for when a court must appoint a guardian ad litem to review a settlement from $25,000 to $50,000 when the settlement involves a minor.
- Creating new reporting requirements related to the appointment of emergency temporary guardians.
- Creating new requirements related to investigations of credit history and background screening for guardians, including background investigations using inkless electronic fingerprints instead of fingerprint cards.
- Decreasing the amount of time during which a guardian must complete the required instruction and education from 1 year to 4 months.
- Emphasizing the importance of an incapacitated person's right to quality of life, clarifying which rights cannot be delegated, reinforcing the significance of the right to marry, and subjecting the right to marry to court approval.
- Creating new restrictions and requirements relating to the appointment of an attorney for an alleged incapacitated person and providing for new requirements for members of examining committees.
- Creating requirements for additional information that must be included in an annual guardianship plan.
- Creating additional requirements relating to proof of payment for expenditures and disbursements made on behalf of a ward.
- Providing clerks of court with the authority to audit simplified and final accountings.
- Creating a new section of law related to the appointment of surrogate guardians.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases requirements and duties for a number of entities, including guardians, the clerks of court, and the Statewide Public Guardianship Office. The bill also requires the Statewide Public Guardianship Office to adopt a rule related to acceptable methods for completing credit investigations. The Florida Department of Law Enforcement must adopt a rule to establish procedures for the retention of guardian fingerprints and dissemination of search results of all arrest fingerprint cards.

Safeguard individual liberty – The bill contains provisions designed to reduce risk to wards and ensure that they are better served by the guardianship process.

Empower families – The bill has the potential to increase the number of individuals able to access the services of a public guardian.

B. EFFECT OF PROPOSED CHANGES:

Guardianship and Public Guardianship

Guardianship is the process designed to protect and exercise the legal rights of individuals with functional limitations that prevent them from being able to make their own decisions when they have not otherwise planned in advance for such a loss of capacity. Those individuals in need of guardianship may have dementia, Alzheimer's disease, a developmental disability, chronic mental illness or other such conditions that may limit function. In such instances, a guardian may be appointed by the court to manage some or all the affairs of another.

Prior to a guardianship being established, it must first be determined that a person lacks the capacity required to make decisions concerning his or her personal and/or financial matters and that no other less restrictive alternatives exist. Upon making such a determination, the court may appoint either a limited guardian[1] or a plenary guardian.[2] In the vast majority of cases that result in guardianship, the court will appoint a family member or close friend of the ward to act as guardian. However, when a family member or close friend is unavailable or unwilling to act as guardian, there are generally two options a court may use to provide assistance to the incapacitated person:

- Appoint a professional guardian to act on the ward's behalf when the ward has assets that may be used to pay for guardianship services provided;[3] or
- Appoint a public guardian in instances where the incapacitated ward does not have enough assets to afford a professional guardian.[4]

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[1] A limited guardian is defined as a guardian who has been appointed by the court to exercise the legal rights and powers specifically designated by court order entered after the court has found that the ward lacks the capacity to do some, but not all, of the tasks necessary to care for his or her person or property, or after the person has voluntarily petitioned for appointment of limited guardian. *See* s. 744.102(8)(a), F.S.

[2] A plenary guardian is defined as a person who has been appointed by the court to exercise all delegable legal rights and powers of the ward after the court has found that the ward lacks the capacity to perform all of the tasks necessary to care for his or her person or property. *See* s. 744.102(8)(b), F.S.

[3] See ss. 744.102(16) and 744.334, F.S.

[4] See s. 744.703, F.S.

Department of Elderly Affairs, the Statewide Public Guardianship Office, and the Guardianship Task Force

In order to ensure that Florida's incapacitated residents who are indigent receive appropriate public guardianship services, the 1999 Florida Legislature created the Statewide Public Guardianship Office (SPGO). The SPGO is responsible for establishing local offices of public guardian and ensuring the registration and education of public and professional guardians.[5] Currently, public guardianship services are provided to persons in 22 counties through 15 local offices of public guardian and during 2003, those 15 offices served a total of 1,716 wards. In May 2003, the SPGO was transferred to the direct supervision of the Secretary of Elderly Affairs.[6]

The 2003 Legislature also created the Guardianship Task Force within the Department of Elderly Affairs (DOEA), for the purpose of recommending specific statutory and other changes for achieving best practices in guardianship and for achieving citizen access to quality guardianship services. The final report was submitted to the Secretary of Elderly Affairs on January 1, 2005.[7]

Public Guardianship Funding Through Court Filing Fees

Until July 2004, each county was authorized under s. 28.241, F.S., to impose, by ordinance or by special or local law, a fee of up to $15 for each civil action filed, for the establishment, maintenance, or supplementation of a public guardian. However, this authority was rescinded as part of the legislative implementation of Constitutional Revision 7 to Article V of the State Constitution. Revision 7, adopted by the voters in 1998, required the state to shift primary costs and funding for the operation of the state courts system to the state and to reallocate other costs and expenses among the local governments and other users and participants in the state courts system. As part of this implementation, all filing fees for trial and appellate proceedings were regulated by the state, with a portion to revert directly to the Department of Revenue to be used to fund court proceedings. However, the $15 allowable for additional expenses that counties were formerly authorized to implement in order to fund public guardianship programs was also removed.[8]

HB 457 CS

The bill incorporates the recommendations of the Guardianship Task Force, the Florida State Guardianship Association, the Statewide Public Guardianship Office, and the State Long-term Care Ombudsman Program within the Department of Elderly Affairs. Specifically, the bill contains provisions related to the following:

Definitions

The bill defines the term "audit" for purposes of Chapter 744, F.S., as a systematic review of financial documents in accordance with generally accepted auditing standards. The term "surrogate guardian" is defined as a professional guardian who is designated by a guardian to exercise the powers of the guardian if the guardian is unavailable to act. A change to the definition of professional guardian clarifies that professional guardians do not have to receive compensation in order to serve as professional guardians as long as they meet all statutory requirements.

Natural Guardians

The bill clarifies that if a parent of a minor child dies, the surviving parent remains as the sole natural guardian even if he or she remarries. Regarding claims or causes of action on behalf of minor children,

[5] See s. 744.7021, F.S. and Chapter 99-227, Laws of Florida.
[6] See Chapter 2003-57, Laws of Florida.
[7] See Chapter 2003-57, Laws of Florida.
[8] See Chapter 2003-402, Laws of Florida.

the bill clarifies that natural guardians are authorized to make certain financial decisions for minor children when the aggregate amount is not more than $15,000. Natural guardians are precluded from using a ward's property for the guardian's benefit or to satisfy the guardian's support obligation to the ward without court approval.

Guardian ad Litem Appointments for Minors

- The court is authorized to appoint a guardian ad litem to represent the minor's interest, before approving a settlement in which a minor has a damages claim in which the gross settlement is more than $15,000, and the court is required to appoint a guardian ad litem where the gross settlement is $50,000 or more;[9]
- The guardian ad litem appointment is required to be without the necessity of bond or notice;
- The duty of the guardian ad litem is to protect the minor's interests in accordance with Florida Probate Rules;
- A court is not required to appoint a guardian ad litem if a guardian has previously been appointed who does not have an adverse interest to the minor; however, a court may appoint a guardian ad litem if the court believes it necessary to protect the minor's interests; and
- The court is required to award reasonable fees and costs to the guardian ad litem, unless waived, to be paid against the gross proceeds of the settlement.

Emergency Temporary Guardians

- The bill increases the initial length of time of an emergency temporary guardianship from 60 days to 90 days;
- An emergency temporary guardian is a guardian for the property and, as such, must include certain information related to accounting and inventory in the final report;
- In instances where the emergency temporary guardian is a guardian of the person, the final report must include such information as residential placement, medical condition, mental health and rehabilitative services, and the social condition of the ward; and
- An emergency temporary guardian is required to file a final report within 30 days upon expiration of the guardianship and a copy of the final report must be provided to the successor guardian and the ward.

Standby Guardianships

- The court may appoint a standby guardian upon petition by the natural guardians or a legally appointed guardian;
- The court may also appoint an alternate if the standby guardian does not serve or ceases to serve;
- The court must serve a notice of hearing on the parents, next of kin, and any currently serving guardian unless notice is waived in writing or by the court for good cause shown; and
- The standby guardian must submit to a credit and criminal investigation.

[9] A guardian appointed in such a case is not a guardian drawn from publicly funded programs.

Credit and Criminal Background Checks

- If a credit or criminal investigation is required, the court must consider investigation results before the appointment of a guardian;
- The court may require a credit investigation at any time;
- The clerk of the court is required to keep a file on each appointed guardian, retain investigation documents, and is required to collect up to $7.50 from each professional guardian for handling and processing of files;
- The court and the Statewide Public Guardianship Office are required to accept the satisfactory completion of a criminal background investigation by any method stated in these provisions;
- A guardian complies with background requirements by paying for and undergoing an electronic fingerprint criminal history check or a criminal history record check using a fingerprint card. The results of the criminal history check shall be immediately forwarded to the clerk who will maintain the results in the guardian's file, and the Statewide Public Guardianship Office;
- A professional guardian is required to complete and pay for a level 2 background screening every five years, a level 1 background screening every two years, unless screened using inkless electronic fingerprinting equipment, and a credit history investigation at least once every two years after appointment;
- Effective December 15, 2006, all fingerprints electronically submitted to the Department of Law Enforcement shall be retained as provided by rule and entered into the statewide automated fingerprint identification system. The Department of Law Enforcement shall search all arrest fingerprint cards against those in the system, reporting any matches to the clerk of the court;
- The clerk of the court is required to forward any arrest records to the Statewide Public Guardianship Office within five days upon receipt;
- Guardians who elect to participate in electronic criminal history checks are required to pay a fee, unless the clerk of the court absorbs the fee;
- The Statewide Public Guardianship Office is required to adopt a rule detailing acceptable methods for completing a credit investigation, and may set a fee of up to $25 to reimburse costs; and
- The Statewide Public Guardianship Office may inspect at any time the results of any credit or criminal history check of a public or professional guardian.

Procedures to Determine Incapacity

- Attorneys representing the ward must be appointed from an attorney registry compiled by the circuit's Article V indigent services committee and must, effective January 1, 2007, have completed a minimum of 8 hours education in guardianship;
- A member appointed is precluded from subsequently being appointed as a guardian of the person;
- Each member must file an affidavit certifying completion of course requirements or that they will be completed within four months upon appointment;
- The initial training and continuing education program must be established by the Statewide Public Guardianship Office, in conjunction with other listed entities; and
- The committee's report must include the names of all persons present during the member's examination, the signature of each member, and the date and time each member examined the alleged incapacitated person.

Voluntary Guardianships

- A guardian must include in the annual report filed with the court a certificate from a licensed physician who examined the ward no more than 90 days before the annual

report is filed with the court, which certifies that the ward is competent to understand the nature of the guardianship and is also aware of the ward's authority to delegate powers to the voluntary guardian.

Surrogate Guardians

- A guardian may designate a surrogate guardian if the guardian is unavailable, but the surrogate must be a professional guardian;
- A guardian must file a petition with the court requesting permission to designate a surrogate;
- Upon approval, the court's order must contain certain information, including the duration of appointment, which is up to 30 days, extendable for good cause; and
- The guardian is liable for the acts of the surrogate guardian and may terminate the surrogate's authority by filing a written notice with the court.

Other Provisions

- An incapacitated person retains the right to receive necessary services and rehabilitation necessary to maximize the quality of life and the right to marry unless the right to enter into a contract has been removed, in which case the court must approve the right to marry;
- Professional and public guardians are required to ensure that each of the guardian's wards is personally visited by the guardian or staff at least once every calendar quarter, unless appointed only as a guardian of the property. During the visit, the guardian or staff person must assess the ward's physical appearance and condition, current living situation, and need for additional services;
- The annual guardianship report is required to be filed by April 1, rather than within 90 days after the end of the calendar year, which is current law;
- Annual guardianship plans for minors must include information about the minor's residence, medical and mental health conditions, and treatment and rehabilitation needs of the minor, and the minor's educational progress;
- Property that is under the guardian's control, including any trust of which the ward is a beneficiary but not under the control or administration of the guardian, is not subject to annual accounting requirements;
- If the ward dies, the guardian must file a final report with the court within 45 days after being served with letters of administration or curatorship, rather than the prompt filing requirement under current law; and
- Regarding the discharge of a guardian named as a personal representative for the ward's estate, any interested person may file a notice of a hearing on any objections filed by the beneficiaries of the ward's estate. If a notice is not served within 90 days after filing, objections are considered abandoned.

C. SECTION DIRECTORY:

Section 1. Amends s. 744.102, F.S., relating to definitions.

Section 2. Amends s. 744.1083, F.S., relating to professional guardian registration.

Section 3. Amends s. 744.301, F.S., relating to natural guardians.

Section 4. Creates s. 744.3025, F.S., relating to claims of minors.

Section 5. Amends s. 744.3031, F.S., relating to emergency temporary guardianship.

Section 6. Amends s. 744.304, F.S., relating to standby guardianship.

Section 7. Amends s. 744.3115, F.S., relating to advance directives for health care.

Section 8. Amends s. 744.3135, F.S., relating to credit and criminal investigation.

Section 9. Amends s. 744.3145, F.S., relating to guardian education requirements.

Section 10. Amends s. 744.3215, F.S., relating to rights of persons determined to be incapacitated.

Section 11. Amends s. 744.331, F.S., relating to procedures to determine incapacity.

Section 12. Amends s. 744.341, F.S., relating to voluntary guardianship.

Section 13. Amends s. 744.361, F.S., relating to powers and duties of a guardian.

Section 14. Amends s. 744.365, F.S., relating to verified inventory.

Section 15. Amends s. 744.367, F.S., relating to the duty to file an annual guardianship report.

Section 16. Amends s. 744.3675, F.S., relating to the annual guardianship plan.

Section 17. Amends s. 744.3678, F.S., relating to annual accounting.

Section 18. Amends s. 744.3679, F.S., relating to simplified accounting procedures in certain cases.

Section 19. Amends s. 744.368, F.S., relating to responsibilities of the clerk of the circuit court.

Section 20. Amends s. 744.441, FS., relating to the powers of a guardian upon court approval.

Section 21. Creates s. 744.442, F.S., relating to the delegation of authority.

Section 22. Amends s. 744.464, F.S., relating to the restoration to capacity.

Section 23. Amends s. 744.474, F.S., relating to reasons for removing a guardian.

Section 24. Amends s. 744.511, F.S., relating to the accounting upon removal of a guardian.

Section 25. Amends s. 744.527, F.S., relating to final reports and application for discharge of guardian.

Section 26. Amends s. 744.528, F.S., relating to the discharge of a guardian named as a personal representative.

Section 27. Amends s. 744.708, F.S., relating to reports and standards.

Section 28. Amends s. 765.101, F.S., relating to definitions.

Section 29. Amends s. 28.345, F.S., relating to the exemption from court-related fees and charges.

Section 30. Amends s. 121.091, F.S., relating to benefits payable.

Section 31. Amends s. 121.4501, F.S., relating to Public Employee Optional Retirement Program.

Section 32. Amends s. 709.08, F.S., relating to durable power of attorney.

Section 33. Amends s. 744.1085, F.S., relating to the regulation of professional guardians.

Section 34. Reenacts s. 117.107, F.S., relating to prohibited acts.

Section 35. Provides for an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The public records exemption will allow anonymous donations to the direct-support organization for the Statewide Public Guardianship Office. As such, those donors and potential donors who wish to donate anonymously will no longer be discouraged from donating by public records laws. Persons involved in guardianship will be required to have additional training. These persons may also have to spend more time drafting reports regarding a person's capacity. The cost of these reports may be borne by the ward. Guardians will have to visit their wards more frequently.

D. FISCAL COMMENTS:

The public records law in general creates a significant, although unquantifiable, increase in government spending. Government employees must locate requested records, and must examine every requested record to determine if a public records exemption prohibits release of the record. There is likely no marginal fiscal impact to a single public records exemption; the location and examination process remains whether or not a particular public records exemption exists.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the Statewide Public Guardianship Office to adopt a rule related to acceptable methods for completing credit investigations. It also requires the Florida Department of Law Enforcement to adopt a rule to establish procedures for the retention of guardian fingerprints and dissemination of search results of all arrest fingerprint cards.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the Future of Florida's Families Committee adopted 3 amendments which do the following:

- Removes the requirement that professional guardians provide the Statewide Public Guardianship Office (SPGO) with the names, address, and dates of birth for each member of their partnerships, associations, persons owning at least 10% of their corporation, or persons providing guardian delegated services;
- Removes the requirement that a certified public accountant conduct the public guardian's ward file review and requires the SPGO to conduct such review;
- Removes the prohibition on the executive director of a public guardian office from being included in the ratio of staff to wards; and
- Restores current language related to the termination of a voluntary guardianship.

The bill was reported favorably as a committee substitute.

On April 4, 2006, the Civil Justice Committee adopted 2 amendments to the bill. The first amendment made a minor grammatical change. The second, substantive amendment removed the possibility of the imposition of a $15 surcharge by counties on non-criminal traffic infractions and criminal violations and the required $18 surcharge on all misdemeanors throughout the state, $15 of which would be used to fund public guardianship programs. The bill was then reported favorably with a committee substitute. This analysis is drafted to the committee substitute.

CHAMBER ACTION

The Civil Justice Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to guardianship; amending s. 744.102, F.S.; defining the terms "audit" and "surrogate guardian"; amending s. 744.1083, F.S.; revising provisions relating to identification information provided by professional guardians for registration; providing that the Statewide Public Guardianship Office need not review credit and criminal investigations from a state college or university before registering the institution as a professional guardian; amending s. 744.301, F.S.; providing that in the event of death, the surviving parent is the sole natural guardian of a minor; prohibiting a natural guardian from using the property of the ward for the guardian's benefit without a court order; creating s. 744.3025, F.S.; authorizing a court to appoint a guardian ad litem to represent a minor's interest in certain claims that exceed a specified amount; requiring a court to appoint a guardian ad litem to represent a minor's interest in certain claims that exceed a specified amount; providing

that a court need not appoint a guardian ad litem under certain circumstances; requiring a court to award reasonable fees and costs to the guardian ad litem; amending s. 744.3031, F.S.; increasing the time an emergency temporary guardian may serve; increasing the time of an extension; requiring an emergency temporary guardian to file a final report; providing for the contents of the final report; amending s. 744.304, F.S.; specifying the persons who may file a petition for a standby guardian; requiring that notice of the appointment hearing be served on the ward's next of kin; clarifying when a standby guardian may assume the duties of guardian; requiring that each standby guardian submit to credit and criminal background checks; amending s. 744.3115, F.S.; defining the term "health care decision"; amending s. 744.3135, F.S.; providing procedures for completing a guardian's criminal background investigation; authorizing a guardian to use inkless electronic fingerprinting equipment that is available for background investigations of public employees; providing that a guardian need not be rescreened if he or she uses certain inkless electronic fingerprinting equipment; providing for fees; requiring the Statewide Public Guardianship Office to adopt a rule for credit investigations of guardians; amending s. 744.3145, F.S.; reducing the time in which a guardian must complete the education courses; amending s. 744.3215, F.S.; providing that an incapacitated person retains the right to receive services and rehabilitation necessary to

maximize the quality of the person's life; revising provisions relating to rights that may be removed from a person determined incapacitated; amending s. 744.331, F.S.; requiring that the court appoint an attorney for an alleged incapacitated person from a specified registry; requiring attorneys to complete certain training programs; providing that a member of the examining committee may not be related to or associated with certain persons; prohibiting a person who served on an examining committee from being appointed as the guardian; requiring each member of an examining committee to file an affidavit stating that he or she has completed or will timely complete the mandatory training; providing for training programs; requiring each member to report the time and date that he or she examined the person alleged to be incapacitated, the names of all persons present during the examination, and the response and name of each person supplying an answer posed to the examinee; providing for an award of attorney's fees; amending s. 744.341, F.S.; requiring the voluntary guardian to include certain information in the annual report; amending s. 744.361, F.S.; requiring a professional guardian to ensure that each of his or her wards is personally visited at least quarterly; providing for the assessment of certain conditions during the personal visit; providing an exemption; amending s. 744.365, F.S.; requiring that the verified inventory include information on any trust to which a ward is a beneficiary; amending s. 744.367, F.S.;

requiring that the annual report of the guardian filing on a calendar-year basis be filed on or before a specified date; exempting all minor wards from service of the annual report; amending s. 744.3675, F.S.; requiring that the annual guardianship plan include information on the mental condition of the ward; providing for an annual guardianship plan for wards who are minors; amending s. 744.3678, F.S.; providing that property of the ward which is not under the control of the guardian, including certain trusts, is not subject to annual accounting; requiring certain documentation for the annual accounting; amending s. 744.3679, F.S.; removing a provision prohibiting the clerk of the court from having responsibility for monitoring or auditing accounts in certain cases; amending s. 744.368, F.S.; requiring that the verified inventory and the accountings be audited within a specified time period; amending s. 744.441, F.S.; requiring the court to retain oversight for assets of a ward transferred to a trust; creating s. 744.442, F.S.; providing that a guardian may designate a surrogate guardian to exercise the powers of the guardian if the guardian is unavailable to act; requiring the surrogate guardian to be a professional guardian; providing the procedures to be used in appointing a surrogate guardian; providing the duties of a surrogate guardian; requiring the guardian to be liable for the acts of the surrogate guardian; authorizing the guardian to terminate the services of the surrogate guardian by filing a written

notice of the termination with the court; amending s. 744.464, F.S.; removing the state attorney from the list of persons to be served a notice of a hearing on restoration of capacity; removing a time limitation on the filing of a suggestion of capacity; amending s. 744.474, F.S.; revising provisions relating to removal of a guardian who is not a family member; revising provisions relating to removal of a guardian upon a showing that removal of the current guardian is in the best interest of the ward; amending s. 744.511, F.S.; providing that a ward who is a minor need not be served with the final report of a removed guardian; amending s. 744.527, F.S.; providing that final reports for a deceased ward be filed at a specified time; amending s. 744.528, F.S.; providing for a notice of the hearing for objections to a report filed by a guardian; amending s. 744.708, F.S.; revising provisions relating to audits and investigations of each office of public guardian; requiring a public guardian to ensure that each of his or her wards is personally visited at least quarterly; providing for the assessment of certain conditions during the personal visit; providing for additional distribution of a specified annual report; deleting a definition; amending s. 765.101, F.S.; redefining the term "health care decision" to include informed consent for mental health treatment services; amending s. 28.345, F.S.; revising provisions relating to exemptions from paying court-related fees and charges; amending ss. 121.091, 121.4501, 709.08, and 744.1085,

F.S.; conforming cross-references; reenacting s. 117.107(4), F.S., relating to prohibited acts of a notary public, to incorporate the amendment made to s. 744.3215, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 744.102, Florida Statutes, is amended to read:

744.102 Definitions.--As used in this chapter, the term:

(1) "Attorney for the alleged incapacitated person" means an attorney who represents the alleged incapacitated person. The ~~Such~~ attorney shall represent the expressed wishes of the alleged incapacitated person to the extent it is consistent with the rules regulating The Florida Bar.

(2) "Audit" means a systematic review of financial documents with adherence to generally accepted auditing standards.

(3) ~~(2)~~ "Clerk" means the clerk or deputy clerk of the court.

(4) ~~(3)~~ "Corporate guardian" means a corporation authorized to exercise fiduciary or guardianship powers in this state and includes a nonprofit corporate guardian.

(5) ~~(4)~~ "Court" means the circuit court.

(6) ~~(5)~~ "Court monitor" means a person appointed by the court under ~~pursuant to~~ s. 744.107 to provide the court with information concerning a ward.

(7) ~~(6)~~ "Estate" means the property of a ward subject to administration.

(8) ~~(7)~~ "Foreign guardian" means a guardian appointed in another state or country.

(9) ~~(8)~~ "Guardian" means a person who has been appointed by the court to act on behalf of a ward's person or property, or both.

(a) "Limited guardian" means a guardian who has been appointed by the court to exercise the legal rights and powers specifically designated by court order entered after the court has found that the ward lacks the capacity to do some, but not all, of the tasks necessary to care for his or her person or property, or after the person has voluntarily petitioned for appointment of a limited guardian.

(b) "Plenary guardian" means a person who has been appointed by the court to exercise all delegable legal rights and powers of the ward after the court has found that the ward lacks the capacity to perform all of the tasks necessary to care for his or her person or property.

(10) ~~(9)~~ "Guardian ad litem" means a person who is appointed by the court having jurisdiction of the guardianship or a court in which a particular legal matter is pending to represent a ward in that proceeding.

(11) ~~(10)~~ "Guardian advocate" means a person appointed by a written order of the court to represent a person with developmental disabilities under s. 393.12. As used in this chapter, the term does not apply to a guardian advocate

appointed for a person determined incompetent to consent to treatment under s. 394.4598.

(12) ~~(11)~~ "Incapacitated person" means a person who has been judicially determined to lack the capacity to manage at least some of the property or to meet at least some of the essential health and safety requirements of the ~~such~~ person.

(a) To "manage property" means to take those actions necessary to obtain, administer, and dispose of real and personal property, intangible property, business property, benefits, and income.

(b) To "meet essential requirements for health or safety" means to take those actions necessary to provide the health care, food, shelter, clothing, personal hygiene, or other care without which serious and imminent physical injury or illness is more likely than not to occur.

(13) ~~(12)~~ "Minor" means a person under 18 years of age whose disabilities have not been removed by marriage or otherwise.

(14) ~~(13)~~ "Next of kin" means those persons who would be heirs at law of the ward or alleged incapacitated person if the ~~such~~ person were deceased and includes the lineal descendants of the ~~such~~ ward or alleged incapacitated person.

(15) ~~(14)~~ "Nonprofit corporate guardian" means a nonprofit corporation organized for religious or charitable purposes and existing under the laws of this state.

(16) ~~(15)~~ "Preneed guardian" means a person named in a written declaration to serve as guardian in the event of the incapacity of the declarant as provided in s. 744.3045.

(17) ~~(16)~~ "Professional guardian" means any guardian who ~~receives or~~ has at any time ~~received compensation for services~~ rendered services to three or more ~~than two~~ wards as their guardian. A person serving as a guardian for two or more relatives as defined in s. 744.309(2) is not considered a professional guardian. A public guardian shall be considered a professional guardian for purposes of regulation, education, and registration.

(18) ~~(17)~~ "Property" means both real and personal property or any interest in it and anything that may be the subject of ownership.

(19) ~~(18)~~ "Standby guardian" means a person empowered to assume the duties of guardianship upon the death or adjudication of incapacity of the last surviving natural or appointed guardian.

(20) "Surrogate guardian" means a guardian designated according to s. 744.442.

(21) ~~(19)~~ "Totally incapacitated" means incapable of exercising any of the rights enumerated in s. 744.3215(2) and (3).

(22) ~~(20)~~ "Ward" means a person for whom a guardian has been appointed.

Section 2. Subsections (3), (7), and (10) of section 744.1083, Florida Statutes, are amended to read:

744.1083 Professional guardian registration.--

(3) Registration must include the following:

(a) Sufficient information to identify the professional guardian, as follows:

1. If the professional guardian is a natural person, the name, address, date of birth, and employer identification or social security number of the person ~~professional guardian~~.

2. ~~(b)~~ If the professional guardian is a partnership or association, the name, address, and ~~date of birth of every member, and the~~ employer identification number of the entity ~~partnership or association~~.

~~(c) If the professional guardian is a corporation, the name, address, and employer identification number of the corporation; the name, address, and date of birth of each of its directors and officers; the name of its resident agent; and the name, address, and date of birth of each person having at least a 10-percent interest in the corporation.~~

~~(d) The name, address, date of birth, and employer identification number, if applicable, of each person providing guardian-delegated financial or personal guardianship services for wards.~~

(b) ~~(e)~~ Documentation that the bonding and educational requirements of s. 744.1085 have been met.

(c) ~~(f)~~ Sufficient information to distinguish a guardian providing guardianship services as a public guardian, individually, through partnership, corporation, or any other business organization.

(7) A trust company, a state banking corporation or state savings association authorized and qualified to exercise fiduciary powers in this state, or a national banking association or federal savings and loan association authorized and qualified to exercise fiduciary powers in this state, may,

but is not required to, register as a professional guardian under this section. If a trust company, state banking corporation, state savings association, national banking association, or federal savings and loan association described in this subsection elects to register as a professional guardian under this subsection, the requirements of subsections (3) and (4) do not apply and the registration must include only the name, address, and employer identification number of the registrant, the name and address of its registered agent, if any, and the documentation described in paragraph (3)(b) ~~(e)~~.

(10) A state college or university or an independent college or university described in s. 1009.98(3)(a), may, but is not required to, register as a professional guardian under this section. If a state college or university or independent college or university elects to register as a professional guardian under this subsection, the requirements of subsections (3) and (4) ~~subsection (3)~~ do not apply and the registration must include only the name, address, and employer identification number of the registrant.

Section 3. Section 744.301, Florida Statutes, is amended to read:

744.301 Natural guardians.--

(1) The mother and father jointly are natural guardians of their own children and of their adopted children, during minority. If one parent dies, the surviving parent remains the sole natural guardian even if he or she ~~the natural guardianship shall pass to the surviving parent, and the right shall continue even though the surviving parent~~ remarries. If the marriage

between the parents is dissolved, the natural guardianship belongs ~~shall belong~~ to the parent to whom ~~the~~ custody of the child is awarded. If the parents are given joint custody, then both ~~shall~~ continue as natural guardians. If the marriage is dissolved and neither the father nor the mother is given custody of the child, neither shall act as natural guardian of the child. The mother of a child born out of wedlock is the natural guardian of the child and is entitled to primary residential care and custody of the child unless a court of competent jurisdiction enters an order stating otherwise.

(2) ~~The~~ Natural ~~guardian or~~ guardians are authorized, on behalf of any of their minor children, to:

(a) Settle and consummate a settlement of any claim or cause of action accruing to any of their minor children for damages to the person or property of any of said minor children;

(b) Collect, receive, manage, and dispose of the proceeds of any such settlement;

(c) Collect, receive, manage, and dispose of any real or personal property distributed from an estate or trust;

(d) Collect, receive, manage, and dispose of and make elections regarding the proceeds from a life insurance policy or annuity contract payable to, or otherwise accruing to the benefit of, the child; and

(e) Collect, receive, manage, dispose of, and make elections regarding the proceeds of any benefit plan as defined by s. 710.102, of which the minor is a beneficiary, participant, or owner,

without appointment, authority, or bond, when the amounts received, in the aggregate, do ~~amount involved in any instance does~~ not exceed $15,000.

(3) All instruments executed by a natural guardian for the benefit of the ward under the powers specified ~~provided for~~ in subsection (2) shall be binding on the ward. The natural guardian may not, without a court order, use the property of the ward for the guardian's benefit or to satisfy the guardian's support obligation to the ward.

~~(4)(a) In any case where a minor has a claim for personal injury, property damage, or wrongful death in which the gross settlement for the claim of the minor exceeds $15,000, the court may, prior to the approval of the settlement of the minor's claim, appoint a guardian ad litem to represent the minor's interests. In any case in which the gross settlement involving a minor equals or exceeds $25,000, the court shall, prior to the approval of the settlement of the minor's claim, appoint a guardian ad litem to represent the minor's interests. The appointment of the guardian ad litem must be without the necessity of bond or a notice. The duty of the guardian ad litem is to protect the minor's interests. The procedure for carrying out that duty is as prescribed in the Florida Probate Rules. If a legal guardian of the minor has previously been appointed and has no potential adverse interest to the minor, the court may not appoint a guardian ad litem to represent the minor's interests, unless the court determines that the appointment is otherwise necessary.~~

~~(b) Unless waived, the court shall award reasonable fees and costs to the guardian ad litem to be paid out of the gross proceeds of the settlement.~~

Section 4. Section 744.3025, Florida Statutes, is created to read:

744.3025 Claims of minors.--

(1)(a) The court may appoint a guardian ad litem to represent the minor's interest before approving a settlement of the minor's portion of the claim in any case in which a minor has a claim for personal injury, property damage, wrongful death, or other cause of action in which the gross settlement of the claim exceeds $15,000.

(b) The court shall appoint a guardian ad litem to represent the minor's interest before approving a settlement of the minor's claim in any case in which the gross settlement involving a minor equals or exceeds $50,000.

(c) The appointment of the guardian ad litem must be without the necessity of bond or notice.

(d) The duty of the guardian ad litem is to protect the minor's interests as described in the Florida Probate Rules.

(e) A court need not appoint a guardian ad litem for the minor if a guardian of the minor has previously been appointed and that guardian has no potential adverse interest to the minor. A court may appoint a guardian ad litem if the court believes a guardian ad litem is necessary to protect the interests of the minor.

(2) Unless waived, the court shall award reasonable fees and costs to the guardian ad litem to be paid out of the gross proceeds of the settlement.

Section 5. Subsection (3) of section 744.3031, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

744.3031 Emergency temporary guardianship.--

(3) The authority of an emergency temporary guardian expires 90 ~~60~~ days after the date of appointment or when a guardian is appointed, whichever occurs first. The authority of the emergency temporary guardian may be extended for an additional 90 ~~30~~ days upon a showing that the emergency conditions still exist.

(8)(a) An emergency temporary guardian shall file a final report no later than 30 days after the expiration of the emergency temporary guardianship.

(b) An emergency temporary guardian is a guardian for the property. The final report must consist of a verified inventory of the property, as provided in s. 744.365, as of the date the letters of emergency temporary guardianship were issued, a final accounting that gives a full and correct account of the receipts and disbursements of all the property of the ward over which the guardian had control, and a statement of the property of the ward on hand at the end of the emergency temporary guardianship. If the emergency temporary guardian becomes the successor guardian of the property, the final report must satisfy the requirements of the initial guardianship report for the guardian of the property as provided in s. 744.362.

(c) If the emergency temporary guardian is a guardian of the person, the final report must summarize the activities of the temporary guardian with regard to residential placement, medical condition, mental health and rehabilitative services, and the social condition of the ward to the extent of the authority granted to the temporary guardian in the letters of guardianship. If the emergency temporary guardian becomes the successor guardian of the person, the report must satisfy the requirements of the initial report for a guardian of the person as stated in s. 744.362.

(d) A copy of the final report of the emergency temporary guardianship shall be served on the successor guardian and the ward.

Section 6. Section 744.304, Florida Statutes, is amended to read:

744.304 Standby guardianship.--

(1) Upon a petition by the natural guardians or a guardian appointed under s. 744.3021, the court may appoint a standby guardian of the person or property of a minor ~~or consent of both parents, natural or adoptive, if living, or of the surviving parent, a standby guardian of the person or property of a minor may be appointed by the court~~. The court may also appoint an alternate to the guardian to act if the standby guardian does not serve or ceases to serve after appointment. Notice of a hearing on the petition must be served on the parents, natural or adoptive, and on any guardian currently serving unless the notice is waived in writing by them or waived by the court for

good cause shown ~~shall renounce, die, or become incapacitated after the death of the last surviving parent of the minor~~.

(2) Upon petition of a currently serving guardian, a standby guardian of the person or property of an incapacitated person may be appointed by the court. Notice of the hearing shall be served on the ward's next of kin.

(3) The standby guardian or alternate shall be empowered to assume the duties of guardianship ~~his or her office~~ immediately on the death, removal, or resignation of the guardian of a minor, or on the death or adjudication of incapacity of the last surviving natural guardian ~~or adoptive parent~~ of a minor, or upon the death, removal, or resignation of the guardian for an adult. The~~, however, such a~~ guardian of the ward's property may not be empowered to deal with the ward's property, other than to safeguard it, before ~~prior to~~ issuance of letters of guardianship. If the ward ~~incapacitated person~~ is over the age of 18 years, the court shall conduct a hearing as provided in s. 744.331 before confirming the appointment of the standby guardian, unless the ward has previously been found to be incapacitated.

(4) Within 20 days after assumption of duties as guardian, a standby guardian shall petition for confirmation of appointment. If the court finds the standby guardian to be qualified to serve as guardian under ~~pursuant to~~ ss. 744.309 and 744.312, appointment of the guardian must be confirmed. Each guardian so confirmed shall file an oath in accordance with s. 744.347, ~~and~~ shall file a bond, and shall submit to a credit and criminal investigation as set forth in s. 744.3135, if required.

Letters of guardianship must then be issued in the manner provided in s. 744.345.

(5) After the assumption of duties by a standby guardian, the court shall have jurisdiction over the guardian and the ward.

Section 7. Section 744.3115, Florida Statutes, is amended to read:

744.3115 Advance directives for health care.--In each proceeding in which a guardian is appointed under this chapter, the court shall determine whether the ward, prior to incapacity, has executed any valid advance directive under ~~pursuant to~~ chapter 765. If any ~~such~~ advance directive exists, the court shall specify in its order and letters of guardianship what authority, if any, the guardian shall exercise over the surrogate. Pursuant to the grounds listed in s. 765.105, the court, upon its own motion, may, with notice to the surrogate and any other appropriate parties, modify or revoke the authority of the surrogate to make health care decisions for the ward. For purposes of this section, the term "health care decision" has the same meaning as in s. 765.101.

Section 8. Section 744.3135, Florida Statutes, is amended to read:

744.3135 Credit and criminal investigation.--

(1) The court may require a nonprofessional guardian and shall require a professional or public guardian, and all employees of a professional guardian who have a fiduciary responsibility to a ward, to submit, at their own expense, to an investigation of the guardian's credit history and to undergo

level 2 background screening as required under s. 435.04. If a credit or criminal investigation is required, the court must consider the results of any investigation before appointing a guardian. At any time, the court may require a guardian or the guardian's employees to submit to an investigation of the person's credit history and complete a level 1 background screening as set forth in s. 435.03. The court shall consider the results of any investigation when reappointing a guardian. The clerk of the court shall maintain a file on each guardian appointed by the court and retain in the file documentation of the result of any investigation conducted under this section. A professional guardian must pay the clerk of the court a fee of up to $7.50 for handling and processing professional guardian files.

(2) The court and the Statewide Public Guardianship Office shall accept the satisfactory completion of a criminal background investigation by any method described in this subsection. A guardian satisfies the requirements of this section by undergoing:

(a) An inkless electronic fingerprint criminal background investigation. A guardian may use any inkless electronic fingerprinting equipment used for criminal background investigations of public employees. The guardian shall pay the actual costs incurred by the Federal Bureau of Investigation and the Department of Law Enforcement for the criminal background investigation. The agency that operates the equipment used by the guardian may charge the guardian an additional fee, not to exceed $10, for the use of the equipment. The agency completing

the investigation must immediately send the results of the criminal background investigation to the clerk of the court and the Statewide Public Guardianship Office. The clerk of the court shall maintain the results in the guardian's file and shall make the results available to the court; or

(b) A criminal background investigation using a fingerprint card. The clerk of the court shall obtain fingerprint cards from the Federal Bureau of Investigation and make them available to guardians. Any guardian who is so required shall have his or her fingerprints taken and forward the proper fingerprint card along with the necessary fee to the ~~Florida~~ Department of Law Enforcement for processing. ~~The professional guardian shall pay to the clerk of the court a fee of up to $7.50 for handling and processing professional guardian files.~~ The results of the fingerprint card background investigations ~~checks~~ shall be forwarded to the clerk of the court who shall maintain the results in the guardian's ~~a guardian~~ file and ~~shall~~ make the results available to the court and the Statewide Public Guardianship Office.

(3)(a) A professional guardian, and each employee of a professional guardian who has a fiduciary responsibility to a ward, must complete, at his or her own expense, a level 2 background screening as set forth in s. 435.04 before and at least once every 5 years after the date the guardian is appointed. A professional guardian, and each employee of a professional guardian who has a fiduciary responsibility to a ward, must complete, at his or her own expense, a level 1 background screening as set forth in s. 435.03 at least once

every 2 years after the date the guardian is appointed. However, a person is not required to resubmit fingerprints for a criminal background investigation if he or she has been screened using inkless electronic fingerprinting equipment that is capable of notifying the clerk of the court of any crime charged against the person in this state or elsewhere, as appropriate.

(b) Effective December 15, 2006, all fingerprints electronically submitted to the Department of Law Enforcement under this section shall be retained by the Department of Law Enforcement in a manner provided by rule and entered in the statewide automated fingerprint identification system authorized by s. 943.05(2)(b). The fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprint cards entered in the Criminal Justice Information Program under s. 943.051.

(c) Effective December 15, 2006, the Department of Law Enforcement shall search all arrest fingerprint cards received under s. 943.051 against the fingerprints retained in the statewide automated fingerprint identification system under paragraph (b). Any arrest record that is identified with the fingerprints of a person described in this paragraph must be reported as soon as possible to the clerk of the court. The clerk of the court must forward any arrest record received for a professional guardian to the Statewide Public Guardianship Office within 5 days. Each guardian who elects to undergo an inkless electronic background investigation shall participate in this search process by paying an annual fee to the clerk of the court and by informing the clerk of the court of any change in

the status of his or her guardianship appointment. The amount of the annual fee to be imposed upon each clerk of the court for performing these searches and the procedures for the retention of guardian fingerprints and the dissemination of search results shall be established by rule of the Department of Law Enforcement. The fee may be borne by the clerk of the court or the guardian, but may not exceed $10.

(4)(a) A professional guardian, and each employee of a professional guardian who has a fiduciary responsibility to a ward, must complete, at his or her own expense, an investigation of his or her credit history before and at least once every 2 years after the date of the guardian's appointment.

(b) The Statewide Public Guardianship Office shall adopt a rule detailing the acceptable methods for completing a credit investigation under this section. If appropriate, the Statewide Public Guardianship Office may administer credit investigations. If the office chooses to administer the credit investigation, the office may adopt a rule setting a fee, not to exceed $25, to reimburse the costs associated with the administration of a credit investigation.

(5) The Statewide Public Guardianship Office may inspect at any time the results of any credit or criminal investigation of a public or professional guardian conducted under this section. The office shall maintain copies of the credit or criminal results in the guardian's registration file. If the results of a credit or criminal investigation of a public or professional guardian have not been forwarded to the Statewide Public Guardianship Office by the investigating agency, the

clerk of the court shall forward copies of the results of the investigations to the office upon receiving them. ~~If credit or criminal investigations are required, the court must consider the results of the investigations before appointing a guardian. Professional guardians and all employees of a professional guardian who have a fiduciary responsibility to a ward, so appointed, must resubmit, at their own expense, to an investigation of credit history, and undergo level 1 background screening as required under s. 435.03, at least every 2 years after the date of their appointment. At any time, the court may require guardians or their employees to submit to an investigation of credit history and undergo level 1 background screening as required under s. 435.03. The court must consider the results of these investigations in reappointing a guardian.~~

~~(1) Upon receiving the results of a credit or criminal investigation of any public or professional guardian, the clerk of the court shall forward copies of the results to the Statewide Public Guardianship Office in order that the results may be maintained in the guardian's registration file.~~

(6) ~~(2)~~ The requirements of this section do ~~does~~ not apply to a professional guardian, or to the employees of a professional guardian, that ~~which~~ is a trust company, a state banking corporation or state savings association authorized and qualified to exercise fiduciary powers in this state, or a national banking association or federal savings and loan association authorized and qualified to exercise fiduciary powers in this state.

Section 9. Subsection (4) of section 744.3145, Florida Statutes, is amended to read:

744.3145 Guardian education requirements.--

(4) Each person appointed by the court to be a guardian must complete the required number of hours of instruction and education within 4 months ~~1 year~~ after his or her appointment as guardian. The instruction and education must be completed through a course approved by the chief judge of the circuit court and taught by a court-approved organization. Court-approved organizations may include, but are not limited to, community or junior colleges, guardianship organizations, and the local bar association or The Florida Bar.

Section 10. Paragraph (i) of subsection (1) and subsection (2) of section 744.3215, Florida Statutes, are amended to read:

744.3215 Rights of persons determined incapacitated.--

(1) A person who has been determined to be incapacitated retains the right:

(i) To receive ~~necessary~~ services and rehabilitation necessary to maximize the quality of life.

(2) Rights that may be removed from a person by an order determining incapacity but not delegated to a guardian include the right:

(a) To marry. If the right to enter into a contract has been removed, the right to marry is subject to court approval.

(b) To vote.

(c) To personally apply for government benefits.

(d) To have a driver's license.

(e) To travel.

(f) To seek or retain employment.

Section 11. Subsections (2), (3), and (7) of section 744.331, Florida Statutes, are amended to read:

744.331 Procedures to determine incapacity.--

(2) ATTORNEY FOR THE ALLEGED INCAPACITATED PERSON.--

(a) When a court appoints an attorney for an alleged incapacitated person, the court must appoint an attorney who is included in the attorney registry compiled by the circuit's Article V indigent services committee. Appointments must be made on a rotating basis, taking into consideration conflicts arising under this chapter.

(b) ~~(a)~~ The court shall appoint an attorney for each person alleged to be incapacitated in all cases involving a petition for adjudication of incapacity. The alleged incapacitated person may substitute her or his own attorney for the attorney appointed by the court, subject to court approval.

(c) ~~(b)~~ Any attorney representing an alleged incapacitated person may not serve as guardian of the alleged incapacitated person or as counsel for the guardian of the alleged incapacitated person or the petitioner.

(d) Effective January 1, 2007, an attorney seeking to be appointed by a court for incapacity and guardianship proceedings must have completed a minimum of 8 hours of education in guardianship. A court may waive the initial training requirement for an attorney who has served as a court-appointed attorney in incapacity proceedings or as an attorney of record for guardians for not less than 3 years.

(3) EXAMINING COMMITTEE.--

(a) Within 5 days after a petition for determination of incapacity has been filed, the court shall appoint an examining committee consisting of three members. One member must be a psychiatrist or other physician. The remaining members must be either a psychologist, gerontologist, another psychiatrist, or other physician, a registered nurse, nurse practitioner, licensed social worker, a person with an advanced degree in gerontology from an accredited institution of higher education, or other person who by knowledge, skill, experience, training, or education may, in the court's discretion, advise the court in the form of an expert opinion, including a professional guardian. One of three members of the committee must have knowledge of the type of incapacity alleged in the petition. Unless good cause is shown, the attending or family physician may not be appointed to the committee. If the attending or family physician is available for consultation, the committee must consult with the physician. Members of the examining committee may not be related to or associated with one another, ~~or~~ with the petitioner, with counsel for the petitioner or the proposed guardian, or with the person alleged to be totally or partially incapacitated. A member may not be employed by any private or governmental agency that has custody of, or furnishes, services or subsidies, directly or indirectly, to the person or the family of the person alleged to be incapacitated or for whom a guardianship is sought. A petitioner may not serve as a member of the examining committee. Members of the examining committee must be able to communicate, either directly or through an interpreter, in the language that the alleged

incapacitated person speaks or to communicate in a medium understandable to the alleged incapacitated person if she or he is able to communicate. The clerk of the court shall send notice of the appointment to each person appointed no later than 3 days after the court's appointment.

(b) A person who has been appointed to serve as a member of an examining committee to examine an alleged incapacitated person may not thereafter be appointed as a guardian for the person who was the subject of the examination.

(c) Each person appointed to an examining committee must file an affidavit with the court stating that he or she has completed the required courses or will do so no later than 4 months after his or her initial appointment. Each year, the chief judge of the circuit must prepare a list of persons qualified to be members of an examining committee.

(d) A member of an examining committee must complete a minimum of 4 hours of initial training. The person must complete 2 hours of continuing education during each 2-year period after the initial training. The initial training and continuing education program must be developed under the supervision of the Statewide Public Guardianship Office, in consultation with the Florida Conference of Circuit Court Judges; the Elder Law and the Real Property, Probate and Trust Law sections of The Florida Bar; the Florida State Guardianship Association; and the Florida Guardianship Foundation. The court may waive the initial training requirement for a person who has served for not less than 5 years on examining committees. If a person wishes to obtain his or her continuing education on the Internet or by

watching a video course, the person must first obtain the approval of the chief judge before taking an Internet or video course.

(e) ~~(b)~~ Each member of the examining committee shall examine the person. Each ~~The~~ examining committee member must ~~shall~~ determine the alleged incapacitated person's ability to exercise those rights specified in s. 744.3215. In addition to the examination, each ~~the~~ examining committee member must ~~shall~~ have access to, and may consider, previous examinations of the person, including, but not limited to, habilitation plans, school records, and psychological and psychosocial reports voluntarily offered for use by the alleged incapacitated person. Each member of the examining committee must ~~shall~~ submit a report within 15 days after appointment.

(f) ~~(c)~~ The examination of the alleged incapacitated person must include a comprehensive examination, a report of which shall be filed by the examining committee as part of its written report. The comprehensive examination report should be an essential element, but not necessarily the only element, used in making a capacity and guardianship decision. The comprehensive examination must include, if indicated:

1. A physical examination;
2. A mental health examination; and
3. A functional assessment.

If any of these three aspects of the examination is not indicated or cannot be accomplished for any reason, the written report must explain the reasons for its omission.

(g) ~~(d)~~ The committee's written report must include:

1. To the extent possible, a diagnosis, prognosis, and recommended course of treatment.

2. An evaluation of the alleged incapacitated person's ability to retain her or his rights, including, without limitation, the rights to marry; vote; contract; manage or dispose of property; have a driver's license; determine her or his residence; consent to medical treatment; and make decisions affecting her or his social environment.

3. The results of the comprehensive examination and the committee members' assessment of information provided by the attending or family physician, if any.

4. A description of any matters with respect to which the person lacks the capacity to exercise rights, the extent of that incapacity, and the factual basis for the determination that the person lacks that capacity.

5. The names of all persons present during the time the committee member conducted his or her examination. If a person other than the person who is the subject of the examination supplies answers posed to the alleged incapacitated person, the report must include the response and the name of the person supplying the answer.

6. ~~5.~~ The signature of each member of the committee and the date and time that each member conducted his or her examination.

(h) ~~(e)~~ A copy of the report must be served on the petitioner and on the attorney for the alleged incapacitated person within 3 days after the report is filed and at least 5 days before the hearing on the petition.

(7) FEES.--

(a) The examining committee and any attorney appointed under subsection (2) are entitled to reasonable fees to be determined by the court.

(b) The fees awarded under paragraph (a) shall be paid by the guardian from the property of the ward or, if the ward is indigent, by the state. The state shall have a creditor's claim against the guardianship property for any amounts paid under this section. The state may file its claim within 90 days after the entry of an order awarding attorney ad litem fees. If the state does not file its claim within the 90-day period, the state is thereafter barred from asserting the claim. Upon petition by the state for payment of the claim, the court shall enter an order authorizing immediate payment out of the property of the ward. The state shall keep a record of the ~~such~~ payments.

(c) If the petition is dismissed, costs and attorney's fees of the proceeding may be assessed against the petitioner if the court finds the petition to have been filed in bad faith.

Section 12. Subsection (4) of section 744.341, Florida Statutes, is renumbered as subsection (5) and a new subsection (4) is added to that section to read:

744.341 Voluntary guardianship.--

(4) A guardian must include in the annual report filed with the court a certificate from a licensed physician who examined the ward not more than 90 days before the annual report is filed with the court. The certificate must certify that the ward is competent to understand the nature of the guardianship

and of the ward's authority to delegate powers to the voluntary guardian.

Section 13. Subsection (9) is added to section 744.361, Florida Statutes, to read:

744.361 Powers and duties of guardian.--

(9) A professional guardian must ensure that each of the guardian's wards is personally visited by the guardian or one of the guardian's professional staff at least once each calendar quarter. During the personal visit, the guardian or the guardian's professional staff person shall assess:

(a) The ward's physical appearance and condition.

(b) The appropriateness of the ward's current living situation.

(c) The need for any additional services and the necessity for continuation of existing services, taking into consideration all aspects of social, psychological, educational, direct service, health, and personal care needs.

This subsection does not apply to a professional guardian who has been appointed only as guardian of the property.

Section 14. Subsection (2) of section 744.365, Florida Statutes, is amended to read:

744.365 Verified inventory.--

(2) CONTENTS.--The verified inventory must include the following:

(a) All property of the ward, real and personal, that has come into the guardian's possession or knowledge, including a statement of all encumbrances, liens, and other secured claims

on any item, any claims against the property, ~~and~~ any cause of action accruing to the ward, and any trusts of which the ward is a beneficiary.~~;~~

(b) The location of the real and personal property in sufficient detail so that it may be clearly identified or located.~~; and~~

(c) A description of all sources of income, including, without limitation, social security benefits and pensions.

Section 15. Subsections (1) and (3) of section 744.367, Florida Statutes, are amended to read:

744.367 Duty to file annual guardianship report.--

(1) Unless the court requires filing on a calendar-year basis, each guardian of the person shall file with the court an annual guardianship plan within 90 days after the last day of the anniversary month the letters of guardianship were signed, and the plan must cover the coming fiscal year, ending on the last day in such anniversary month. If the court requires calendar-year filing, the guardianship plan must be filed on or before April 1 of each year ~~within 90 days after the end of the calendar year~~.

(3) The annual guardianship report of a guardian of the property must consist of an annual accounting, and the annual report of a guardian of the person ~~of an incapacitated person~~ must consist of an annual guardianship plan. The annual report shall be served on the ward, unless the ward is a minor ~~under the age of 14 years~~ or is totally incapacitated, and on the attorney for the ward, if any. The guardian shall provide a copy to any other person as the court may direct.

Section 16. Section 744.3675, Florida Statutes, is amended to read:

744.3675 Annual guardianship plan.--Each guardian of the person must file with the court an annual guardianship plan which updates information about the condition of the ward. The annual plan must specify the current needs of the ward and how those needs are proposed to be met in the coming year.

(1) Each plan for an adult ward must, if applicable, include:

(a) Information concerning the residence of the ward, including:

1. The ward's address at the time of filing the plan.~~;~~

2. The name and address of each place where the ward was maintained during the preceding year.~~;~~

3. The length of stay of the ward at each place.~~;~~

4. A statement of whether the current residential setting is best suited for the current needs of the ward.~~; and~~

5. Plans for ensuring during the coming year that the ward is in the best residential setting to meet his or her needs.

(b) Information concerning the medical and mental health conditions ~~condition~~ and treatment and rehabilitation needs of the ward, including:

1. A resume of any professional medical treatment given to the ward during the preceding year.~~;~~

2. The report of a physician who examined the ward no more than 90 days before the beginning of the applicable reporting period. The ~~Such~~ report must contain an evaluation of the ward's

condition and a statement of the current level of capacity of the ward.~~; and~~

3. The plan for providing ~~provision of~~ medical, mental health, and rehabilitative services in the coming year.

(c) Information concerning the social condition of the ward, including:

1. The social and personal services currently used ~~utilized~~ by the ward.~~;~~

2. The social skills of the ward, including a statement of how well the ward communicates and maintains interpersonal relationships. ~~with others;~~

~~3. A description of the ward's activities at communication and visitation; and~~

3.~~4.~~ The social needs of the ward.

(2) Each plan filed by the legal guardian of a minor must include:

(a) Information concerning the residence of the minor, including:

1. The minor's address at the time of filing the plan.

2. The name and address of each place the minor lived during the preceding year.

(b) Information concerning the medical and mental health conditions and treatment and rehabilitation needs of the minor, including:

1. A resume of any professional medical treatment given to the minor during the preceding year.

2. A report from the physician who examined the minor no more than 180 days before the beginning of the applicable

reporting period that contains an evaluation of the minor's physical and mental conditions.

3. The plan for providing medical services in the coming year.

(c) Information concerning the education of the minor, including:

1. A summary of the school progress report.

2. The social development of the minor, including a statement of how well the minor communicates and maintains interpersonal relationships.

3. The social needs of the minor.

(3) ~~(2)~~ Each plan for an adult ward must address the issue of restoration of rights to the ward and include:

(a) A summary of activities during the preceding year that ~~which~~ were designed to enhance ~~increase~~ the capacity of the ward. ~~;~~

(b) A statement of whether the ward can have any rights restored. ~~; and~~

(c) A statement of whether restoration of any rights will be sought.

(4) ~~(3)~~ The court, in its discretion, may require reexamination of the ward by a physician at any time.

Section 17. Subsections (2) and (3) of section 744.3678, Florida Statutes, are amended to read:

744.3678 Annual accounting.--

(2) The annual accounting must include:

(a) A full and correct account of the receipts and disbursements of all of the ward's property over which the

guardian has control and a statement of the ward's property on hand at the end of the accounting period. This paragraph does not apply to any property or any trust of which the ward is a beneficiary but which is not under the control or administration of the guardian.

(b) A copy of the annual or year-end statement of all of the ward's cash accounts from each of the institutions where the cash is deposited.

(3) The guardian must obtain a receipt, ~~or~~ canceled check, or other proof of payment for all expenditures and disbursements made on behalf of the ward. The guardian must preserve all evidence of payment ~~the receipts and canceled checks~~, along with other substantiating papers, for a period of 3 years after his or her discharge. The receipts, proofs of payment ~~checks~~, and substantiating papers need not be filed with the court but shall be made available for inspection and review at the ~~such~~ time and ~~in such~~ place and before the ~~such~~ persons as the court may ~~from time to time~~ order.

Section 18. Section 744.3679, Florida Statutes, is amended to read:

744.3679 Simplified accounting procedures in certain cases.--

(1) In a guardianship of property, when all assets of the estate are in designated depositories under s. 69.031 and the only transactions that occur in that account are interest accrual, deposits from a ~~pursuant to~~ settlement, or financial institution service charges, the guardian may elect to file an accounting consisting of:

(a) The original or a certified copy of the year-end statement of the ward's account from the financial institution; and

(b) A statement by the guardian under penalty of perjury that the guardian has custody and control of the ward's property as shown in the year-end statement.

~~(2) The clerk has no responsibility to monitor or audit the accounts and may not accept a fee for doing so.~~

(2)~~(3)~~ The accounting allowed by subsection (1) is in lieu of the accounting and auditing procedures under s. 744.3678(2) ~~ss. 744.3678 and 744.368(1)(f)~~. However, any interested party may seek judicial review as provided in s. 744.3685.

(3)~~(4)~~ The guardian need not be represented by an attorney in order to file the annual accounting allowed by subsection (1).

Section 19. Subsection (3) of section 744.368, Florida Statutes, is amended to read:

744.368 Responsibilities of the clerk of the circuit court.--

(3) Within 90 days after the filing of the verified inventory and accountings ~~initial or annual guardianship report~~ by a guardian of the property, the clerk shall audit the verified inventory and ~~or~~ the accountings ~~annual accounting~~. The clerk shall advise the court of the results of the audit.

Section 20. Subsection (19) of section 744.441, Florida Statutes, is amended to read:

744.441 Powers of guardian upon court approval.--After obtaining approval of the court pursuant to a petition for

authorization to act, a plenary guardian of the property, or a limited guardian of the property within the powers granted by the order appointing the guardian or an approved annual or amended guardianship report, may:

(19) Create or amend revocable or irrevocable trusts of property of the ward's estate which may extend beyond the disability or life of the ward in connection with estate, gift, income, or other tax planning or in connection with estate planning. The court shall retain oversight of the assets transferred to a trust, unless otherwise ordered by the court.

Section 21. Section 744.442, Florida Statutes, is created to read:

744.442 Delegation of authority.--

(1) A guardian may designate a surrogate guardian to exercise the powers of the guardian if the guardian is unavailable to act. A person designated as a surrogate guardian under this section must be a professional guardian.

(2)(a) A guardian must file a petition with the court requesting permission to designate a surrogate guardian.

(b) If the court approves the designation, the order must specify the name and business address of the surrogate guardian and the duration of appointment, which may not exceed 30 days. The court may extend the appointment for good cause shown. The surrogate guardian may exercise all powers of the guardian unless limited by order of the court. The surrogate guardian must file with the court an oath swearing or affirming that he or she will faithfully perform the duties delegated. The court may require the surrogate guardian to post a bond.

(3) This section does not limit the responsibility of the guardian to the ward and to the court. The guardian is liable for the acts of the surrogate guardian. The guardian may terminate the authority of the surrogate guardian by filing a written notice of the termination with the court.

(4) The surrogate guardian is subject to the jurisdiction of the court as if appointed to serve as guardian.

Section 22. Paragraphs (c), (e), and (f) of subsection (2) and subsection (4) of section 744.464, Florida Statutes, are amended to read:

744.464 Restoration to capacity.--

(2) SUGGESTION OF CAPACITY.--

(c) The court shall immediately send notice of the filing of the suggestion of capacity to the ward, the guardian, the attorney for the ward, if any, ~~the state attorney,~~ and any other interested persons designated by the court. Formal notice must be served on the guardian. Informal notice may be served on other persons. Notice need not be served on the person who filed the suggestion of capacity.

(e) If an objection is timely filed, or if the medical examination suggests that full restoration is not appropriate, the court shall set the matter for hearing. If the ward does not have an attorney, the court shall appoint one to represent the ward.

(f) Notice of the hearing and copies of the objections and medical examination reports shall be served upon the ward, the ward's attorney, the guardian, ~~the state attorney,~~ the ward's

next of kin, and any other interested persons as directed by the court.

~~(4) TIME LIMITATION FOR FILING SUGGESTION OF CAPACITY.--Notwithstanding this section, a suggestion of capacity may not be filed within 90 days after an adjudication of incapacity or denial of restoration, unless good cause is shown.~~

Section 23. Paragraph (a) of subsection (19) of section 744.474, Florida Statutes, is amended, and paragraph (b) of that subsection is redesignated as subsection (20) of that section and amended, to read:

744.474 Reasons for removal of guardian.--A guardian may be removed for any of the following reasons, and the removal shall be in addition to any other penalties prescribed by law:

(19) Upon a showing by a person who did not receive notice of the petition for adjudication of incapacity, when such notice is required, or who is related to the ward within the relationships specified for nonresident relatives in ss. 744.309(2) and 744.312(2) and who has not previously been rejected by the court as a guardian that~~:~~

~~(a)~~ the current guardian is not a family member~~,~~ and subsection (20) applies.

(20)~~(b)~~ Upon a showing that removal of the current guardian is in the best interest of the ward, the court may remove the current guardian and appoint the petitioner, or such person as the court deems in the best interest of the ward, either as guardian of the person or of the property, or both.

Section 24. Section 744.511, Florida Statutes, is amended to read:

744.511 Accounting upon removal.--A removed guardian shall file with the court a true, complete, and final report of his or her guardianship within 20 days after removal and shall serve a copy on the successor guardian and the ward, unless the ward is a minor ~~under 14 years of age~~ or has been determined to be totally incapacitated.

Section 25. Section 744.527, Florida Statutes, is amended to read:

744.527 Final reports and application for discharge; hearing.--

(1) When the court terminates the guardianship for any of the reasons set forth in s. 744.521, the guardian shall promptly file his or her final report. If the ward has died, the guardian must file a final report with the court no later than 45 days after he or she has been served with letters of administration or letters of curatorship. If no objections are filed and if it appears that the guardian has made full and complete distribution to the person entitled and has otherwise faithfully discharged his or her duties, the court shall approve the final report. If objections are filed, the court shall conduct a hearing in the same manner as provided for a hearing on objections to annual guardianship reports.

(2) The guardian applying for discharge may ~~is authorized to~~ retain from the funds in his or her possession a sufficient amount to pay the final costs of administration, including guardian and attorney's fees regardless of the death of the

ward, accruing between the filing of his or her final returns and the order of discharge.

Section 26. Subsection (3) of section 744.528, Florida Statutes, is amended to read:

744.528 Discharge of guardian named as personal representative.--

(3) Any interested person may file a notice of ~~The court shall set~~ a hearing on any objections filed by the beneficiaries. Notice of the hearing must ~~shall~~ be served upon the guardian, beneficiaries of the ward's estate, and any other person to whom the court directs service. If a notice of hearing on the objections is not served within 90 days after filing of the objections, the objections are deemed abandoned.

Section 27. Subsections (5) through (8) of section 744.708, Florida Statutes, are amended to read:

744.708 Reports and standards.--

(5)(a) Each office of public guardian shall undergo an independent audit by a qualified certified public accountant ~~shall be performed~~ at least once every 2 years. ~~The audit should include an investigation into the practices of the office for managing the person and property of the wards.~~ A copy of the audit report shall be submitted to the Statewide Public Guardianship Office.

(b) In addition to regular monitoring activities, the Statewide Public Guardianship Office shall conduct an investigation into the practices of each office of public guardian related to the managing of each ward's personal affairs and property. When feasible, the investigation required under

this paragraph shall be conducted in conjunction with the financial audit of each office of public guardian under paragraph (a).

(c) In addition, each ~~the~~ office of public guardian shall be subject to audits or examinations by the Auditor General and the Office of Program Policy Analysis and Government Accountability pursuant to law.

(6) A ~~The~~ public guardian shall ensure that each of the guardian's wards is personally visited ~~ward is seen~~ by the public guardian or by one of the guardian's ~~a~~ professional staff ~~person~~ at least once each calendar quarter ~~four times a year~~. During this personal visit, the public guardian or the professional staff person shall assess:

(a) The ward's physical appearance and condition.

(b) The appropriateness of the ward's current living situation.

(c) The need for any additional services and the necessity for continuation of existing services, taking into consideration all aspects of social, psychological, educational, direct service, health, and personal care needs.

(7) The ratio for professional staff to wards shall be 1 professional to 40 wards. The Statewide Public Guardianship Office may increase or decrease the ratio after consultation with the local public guardian and the chief judge of the circuit court. The basis of the decision to increase or decrease the prescribed ratio shall be reported in the annual report to the Secretary of Elderly Affairs, the Governor, the President of

the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

~~(8) The term "professional," for purposes of this part, shall not include the public guardian nor the executive director of the Statewide Public Guardianship Office. The term "professional" shall be limited to those persons who exercise direct supervision of individual wards under the direction of the public guardian.~~

Section 28. Paragraph (a) of subsection (5) of section 765.101, Florida Statutes, is amended to read:

765.101 Definitions.--As used in this chapter:

(5) "Health care decision" means:

(a) Informed consent, refusal of consent, or withdrawal of consent to any and all health care, including life-prolonging procedures and mental health treatment, unless otherwise stated in the advance directives.

Section 29. Section 28.345, Florida Statutes, is amended to read:

28.345 Exemption from court-related fees and charges.--Notwithstanding any other ~~provision of this chapter or~~ law to the contrary, judges and those court staff acting on behalf of judges, state attorneys, guardians ad litem, public guardians, attorneys ad litem, court-appointed private counsel, and public defenders, acting in their official capacity, and state agencies~~,~~ are exempt from all court-related fees and charges assessed by the clerks of the circuit courts.

Section 30. Paragraph (c) of subsection (8) of section 121.091, Florida Statutes, is amended to read:

121.091 Benefits payable under the system.--Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(8) DESIGNATION OF BENEFICIARIES.--

(c) Notwithstanding the member's designation of benefits to be paid through a trust to a beneficiary that is a natural person as provided in s. 121.021(46), and notwithstanding the provisions of the trust, benefits shall be paid directly to the beneficiary if the ~~such~~ person is no longer a minor or an incapacitated person as defined in s. 744.102~~(11) and (12)~~.

Section 31. Paragraph (c) of subsection (20) of section 121.4501, Florida Statutes, is amended to read:

121.4501 Public Employee Optional Retirement Program.--

(20) DESIGNATION OF BENEFICIARIES.--

(c) Notwithstanding the participant's designation of benefits to be paid through a trust to a beneficiary that is a natural person, and notwithstanding the provisions of the trust, benefits shall be paid directly to the beneficiary if the ~~such~~

person is no longer a minor or an incapacitated person as defined in s. 744.102~~(11) and (12)~~.

Section 32. Subsection (1) and paragraphs (b), (d), and (f) of subsection (4) of section 709.08, Florida Statutes, are amended to read:

709.08 Durable power of attorney.--

(1) CREATION OF DURABLE POWER OF ATTORNEY.--A durable power of attorney is a written power of attorney by which a principal designates another as the principal's attorney in fact. The durable power of attorney must be in writing, must be executed with the same formalities required for the conveyance of real property by Florida law, and must contain the words: "This durable power of attorney is not affected by subsequent incapacity of the principal except as provided in s. 709.08, Florida Statutes"; or similar words that show the principal's intent that the authority conferred is exercisable notwithstanding the principal's subsequent incapacity, except as otherwise provided by this section. The durable power of attorney is exercisable as of the date of execution; however, if the durable power of attorney is conditioned upon the principal's lack of capacity to manage property as defined in s. 744.102(12)~~(11)~~(a), the durable power of attorney is exercisable upon the delivery of affidavits in paragraphs (4)(c) and (d) to the third party.

(4) PROTECTION WITHOUT NOTICE; GOOD FAITH ACTS; AFFIDAVITS.--

(b) Any third party may rely upon the authority granted in a durable power of attorney that is conditioned on the

principal's lack of capacity to manage property as defined in s. 744.102(12) ~~(11)~~(a) only after receiving the affidavits provided in paragraphs (c) and (d), and such reliance shall end when the third party has received notice as provided in subsection (5).

(d) A determination that a principal lacks the capacity to manage property as defined in s. 744.102(12) ~~(11)~~(a) must be made and evidenced by the affidavit of a physician licensed to practice medicine pursuant to chapters 458 and 459 as of the date of the affidavit. A judicial determination that the principal lacks the capacity to manage property pursuant to chapter 744 is not required prior to the determination by the physician and the execution of the affidavit. For purposes of this section, the physician executing the affidavit must be the primary physician who has responsibility for the treatment and care of the principal. The affidavit executed by a physician must state where the physician is licensed to practice medicine, that the physician is the primary physician who has responsibility for the treatment and care of the principal, and that the physician believes that the principal lacks the capacity to manage property as defined in s. 744.102(12) ~~(11)~~(a). The affidavit may, but need not, be in the following form:

STATE OF_____

COUNTY OF_____

Before me, the undersigned authority, personally appeared (name of physician) , Affiant, who swore or affirmed that:

1. Affiant is a physician licensed to practice medicine in (name of state, territory, or foreign country) .

2. Affiant is the primary physician who has responsibility for the treatment and care of (principal's name) .

3. To the best of Affiant's knowledge after reasonable inquiry, Affiant believes that the principal lacks the capacity to manage property, including taking those actions necessary to obtain, administer, and dispose of real and personal property, intangible property, business property, benefits, and income.

_____

(Affiant)

Sworn to (or affirmed) and subscribed before me this (day of) (month) , (year) , by (name of person making statement)

(Signature of Notary Public-State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known OR Produced Identification

(Type of Identification Produced)

(f) A third party may not rely on the authority granted in a durable power of attorney conditioned on the principal's lack of capacity to manage property as defined in s. 744.102(12) ~~(11)~~(a) when any affidavit presented has been

executed more than 6 months prior to the first presentation of the durable power of attorney to the third party.

Section 33. Subsection (3) of section 744.1085, Florida Statutes, is amended to read:

744.1085 Regulation of professional guardians; application; bond required; educational requirements.--

(3) Each professional guardian defined in s. 744.102(17) ~~(16)~~ and public guardian must receive a minimum of 40 hours of instruction and training. Each professional guardian must receive a minimum of 16 hours of continuing education every 2 calendar years after the year in which the initial 40-hour educational requirement is met. The instruction and education must be completed through a course approved or offered by the Statewide Public Guardianship Office. The expenses incurred to satisfy the educational requirements prescribed in this section may not be paid with the assets of any ward. This subsection does not apply to any attorney who is licensed to practice law in this state.

Section 34. For the purpose of incorporating the amendment made by this act to section 744.3215, Florida Statutes, in a reference thereto, subsection (4) of section 117.107, Florida Statutes, is reenacted to read:

117.107 Prohibited acts.--

(4) A notary public may not take the acknowledgment of or administer an oath to a person whom the notary public actually knows to have been adjudicated mentally incapacitated by a court of competent jurisdiction, where the acknowledgment or oath necessitates the exercise of a right that has been removed

pursuant to s. 744.3215(2) or (3), and where the person has not been restored to capacity as a matter of record.

Section 35. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 459 Public Records
SPONSOR(S): Sands
TIED BILLS: HB 457 **IDEN./SIM. BILLS:** SB 474

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families Committee	4 Y, 2 N	Preston	Collins
2) Civil Justice Committee	7 Y, 0 N	Shaddock	Bond
3) Governmental Operations Committee	(W/D)		
4) Health & Families Council		Preston	Moore
5)			

SUMMARY ANALYSIS

The bill creates a public records exemption for identifying information of persons making a donation to the direct-support organization of the Statewide Public Guardianship Office. This anonymity must also be maintained in any publication concerning the direct-support organization.

The bill provides for future review and repeal of the exemption on October 2, 2010, and provides a statement of public necessity.

The bill could have a minimal fiscal impact on state and local governments.

The bill requires a two-thirds vote of the members present and voting for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill decreases access to public records.

B. EFFECT OF PROPOSED CHANGES:

Public Records Law

Florida has a long history of providing public access to the records of governmental and other public entities. The Legislature enacted its first law affording access to public records in 1909. In 1992, Floridians adopted an amendment to the state constitution that raised the statutory right of access to public records to a constitutional level. Section (24)(a), Art. I of the State Constitution provides that:

> Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

The Public Records Law[1] also specifies conditions under which the public must have access to governmental records. Section 119.011(11), F.S., defines the term "public records" to include:

> all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition of public records to include all materials made or received by an agency in connection with official business which are used "to perpetuate, communicate, or formalize knowledge."[2] Unless the Legislature makes these materials exempt, they are open for public inspection, regardless of whether they are in final form.[3]

Under s. 24(c), Art. I of the State Constitution, the Legislature may provide for the exemption of records from the public records requirements provided: (1) the law creating the exemption states with specificity the public necessity justifying the exemption; and (2) the exemption is no broader than necessary to accomplish the stated purpose of the law.

The Open Government Sunset Review Act, s. 119.15, F.S., provides for the review, repeal, and reenactment of an exemption. A new exemption is repealed on the October 2nd in the fifth year after enactment, unless the exemption is reenacted by the Legislature. An exemption may be created or maintained only if it serves an identifiable public purpose, and it may be no broader than necessary to meet that purpose.

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[1] Chapter 119, F.S.

[2] *Shevin v. Byron, Harless, Schaffer, Reid, and Assocs., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

[3] *See Wait v. Florida Power & Light Co.*, 372 So. 2d 420 (Fla. 1979).

Statewide Public Guardianship Office

The Statewide Public Guardianship Office ("SPGO") is housed within the Department of Elderly Affairs.[4] The purpose of the SPGO is to provide public guardians to incapacitated persons for whom there is no family member or friend, other person, bank, or corporation willing and qualified to serve as guardian.[5] The Legislature also authorized the creation of a direct-support organization to support the SPGO.[6] The purpose of the direct-support organization is:

> to conduct programs and activities; to raise funds; to request and receive grants, gifts, and bequests of moneys; to acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and to make expenditures to or for the direct or indirect benefit of the Statewide Public Guardianship Office. . . .[7]

The bill creates a public records exemption to allow donors and prospective donors to the direct-support organization for the Statewide Public Guardianship Office to remain anonymous, if they wish. The bill provides that the public records exemption is necessary because the release of information identifying donors will adversely affect the direct-support organization.

This bill takes effect July 1, 2006. The public records exemption will automatically repeal on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

C. SECTION DIRECTORY:

Section 1. Amends s. 744.7082, F.S., to create a public records exemption for identifying information of persons making a donation to the direct-support organization of the Statewide Public Guardianship Office.

Section 2. Provides for review and future repeal of the exemption on October 2, 2010.

Section 3. Provides a statement of public necessity.

Section 4. Provides for an effective date of July 1, 2006, if HB 457 becomes law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

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[4] Section 744.7021, F.S.
[5] Section 744.702, F.S.
[6] Section 744.7082, F.S.
[7] Section 744.7082(1)(b), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The public records exemption will allow anonymous donations to the direct-support organization for the Statewide Public Guardianship Office. As such, those donors and potential donors who wish to donate anonymously will no longer be discouraged from donating by public records laws.

D. FISCAL COMMENTS:

The public records law in general creates a significant, although unquantifiable, increase in government spending. Government employees must locate requested records, and must examine every requested record to determine if a public records exemption prohibits release of the record. There is likely no marginal fiscal impact to a single public records exemption; the location and examination process remains whether or not a particular public records exemption exists.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. Thus, the bill requires a two-thirds vote for passage.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

A bill to be entitled

An act relating to public records; amending s. 744.7082, F.S.; creating an exemption from public records requirements for identifying information of persons making a donation of funds or property to the direct-support organization of the Statewide Public Guardianship Office; providing for review and repeal under the Open Government Sunset Review Act; providing a statement of public necessity; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (6) and (7) of section 744.7082, Florida Statutes, are renumbered as subsections (7) and (8), respectively, and a new subsection (6) is added to that section to read:

744.7082 Direct-support organization; definition; use of property; board of directors; audit; dissolution.--

(6) PUBLIC RECORDS.--The identity of a donor or prospective donor of funds or property to the direct-support organization who desires to remain anonymous, and all information identifying the donor or prospective donor, is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and that anonymity must be maintained in any publication concerning the direct-support organization.

Section 2. Subsection (6) of s. 744.7082, Florida Statutes, is subject to the Open Government Sunset Review Act in

accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. The Legislature finds that it is a public necessity that the name and other identifying information of a donor or prospective donor to the direct-support organization of the Statewide Public Guardianship Office be held confidential and exempt from public disclosure because the disclosure of this information would adversely impact the efforts of the direct-support organization to collect funding or gifts of property to support the statewide office. The sole purpose of the direct-support organization is to raise funds for the statewide office, and donor contributions are a key element in the ability of the organization to achieve its goals. Some individuals who desire to donate to the direct-support organization wish to remain anonymous. The direct-support organization would be adversely affected if identifying information of a donor is released to the public. Therefore, the Legislature finds that any benefit derived from public disclosure of identifying information of a donor is outweighed by the necessity to keep the information confidential.

Section 4. This act shall take effect July 1, 2006, if House Bill 457, or similar legislation revising provisions relating to the Statewide Public Guardianship Office, is adopted in the same legislative session or an extension thereof and becomes law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 569 CS Athletic Trainers
SPONSOR(S): Kreegel
TIED BILLS: **IDEN./SIM. BILLS:** SB 266

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee	9 Y, 0 N, w/CS	Hamrick	Mitchell
2) PreK-12 Committee	(W/D)	Beagle	Mizereck
3) Health & Families Council		Hamrick	Moore
4)			
5)			

SUMMARY ANALYSIS

HB 569 CS revises the licensure and renewal requirements for athletic trainers. The bill removes several provisions, including: an exemption relating to teacher apprentice athletic trainers; required supervised athletic training experience and continuing education in standard first aid; and a grandfather clause that allowed for an alternative avenue for individuals seeking licensure prior to October 1, 1996. The bill requires athletic trainers employed by a school district to be licensed under part XIII of ch. 468, F.S., as an athletic trainer.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government-The bill removes and revises several regulations related to the standards of the profession of athletic training in Florida.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Certified Athletic Trainers and the National Athletic Trainers' Association

According to the National Athletic Trainers' Association, certified Athletic Trainers are medical experts in preventing, recognizing, managing and rehabilitating injuries that result from physical activity. Athletic trainers can help athletes avoid unnecessary medical treatment and disruption of normal daily life.[1]

The American Medical Association (AMA) recognized athletic training as an allied health care profession in 1990. AMA recommends placement of certified athletic trainers in every high school to keep America's youth safe and healthy.[2] A certified athletic trainer specializes in six practice areas or domains:

- Prevention
- Recognition, Evaluation & Assessment
- Immediate Care
- Treatment, Rehabilitation & Reconditioning
- Organization & Administration
- Professional Development & Responsibility

As part of a complete health care team, the certified athletic trainer works under the direction of a licensed physician and in cooperation with other health care professionals, athletics administrators, coaches and parents. The certified athletic trainer gets to know each athlete individually and can treat injuries more effectively.

A certified athletic trainer's day may, for example, include these tasks:

- Prepare athletes for practice or competition, including taping, bandaging and bracing;
- Evaluate injuries to determine their management and possible referral;
- Develop conditioning programs; and
- Implement treatment and rehabilitation programs.

Students who want to become certified athletic trainers must earn a degree from an accredited athletic training curriculum or meet other requirements set by the Board of Certification. A growing number of universities are gaining accreditation through the Commission on Accreditation of Allied Health Education Programs (CAAHEP).

The Athletic Trainer curriculum includes formal instruction in a variety of areas, such as:

- Assessment and Evaluation
- Acute Care
- General Medical Conditions and Disabilities

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[1] National Athletic Trainers Association. What does a Certified Athetic Trainer Do? http://www.nata.org/downloads/documents/306CareerInfoBrochure.htm (April 24, 2006).
[2] Ibid.

- Pathology of Injury and Illness
- Pharmacological Aspects of Injury and Illness
- Nutritional Aspects of Injury and Illness
- Therapeutic Exercise
- Therapeutic Modalities
- Risk Management and Injury Prevention
- Health Care Administration
- Professional Development and Responsibilities
- Psychosocial Intervention and Referral

Licensed Athletic Trainers in Florida

Section 468.707, F.S. provides the licensure by examination requirements for licensed athletic trainers in the state. Accordingly, the Department of Health may license an individual who:

- Has completed the application form and remitted the required fees, which may total $500;[3]
- Is at least 21 years of age;
- Has obtained a baccalaureate degree from a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the board;
- Has completed coursework from an accredited college or university in each of the following areas, as provided by rule: health, human anatomy, kinesiology/biomechanics, human physiology, physiology of exercise, basic athletic training, and advanced athletic training;
- Is certified in standard first aid and cardiovascular pulmonary resuscitation (CPR) from the American Red Cross or an equivalent certification;
- Has, within 2 of the preceding 5 years, attained a minimum of 800 hours of athletic training experience under the direct supervision of a licensed athletic trainer or an athletic trainer certified by the National Athletic Trainers' Association or a comparable national athletic standards organization; and
- Has passed an examination administered or approved by the board.

Section 468.707, F.S., provides a grandfather clause for an individual who:

- Has completed the application form and remitted the required fees no later than October 1, 1996;
- Is at least 21 years of age;
- Is certified in standard first aid and cardiovascular pulmonary resuscitation from the American Red Cross or an equivalent certification;
- Has practiced athletic training for at least 3 of the 5 years preceding application; or
- Is currently certified by the National Athletic Trainers' Association or a comparable national athletic standards organization.

The National Board for the Athletic Trainers

National Certification of Athletic Trainers Requires Continuing Education for National Certification

The Board of Certification (BOC) was incorporated in 1989 to provide a certification program for entry-level athletic trainers and recertification standards for certified athletic trainers. The National Certification of Athletic Trainers Examination is recognized in 40 states.

The BOC has established continuing education requirements that a certified athletic trainer is required to complete in order to maintain their status as a BOC certified athletic trainer.[4] Annually, the Board of

[3] See s. 468.709. F.S.
[4] Board of Certification for the Athletic Trainer. Defining Athletic Training. http://www.bocatc.org/athtrainer/DEFINE/ (April 24, 2006).

Certification reviews the requirements for certification eligibility and standards for continuing education. The Board reviews and revises the certification examination every five years.

National Athletic Training Examination Requires Emergency Cardiac Care Certification

National Examination Candidates must be graduates of an accredited Athletic Training Curriculum Program. Candidates for certification must pass a three-part examination. The three parts are: written, simulation, and practical.

Until recently, individuals wishing to take Part 3 of the exam application were required to have a current Cardiopulmonary Resuscitation (CPR) certification card. This requirement has been updated and requires that they have an Emergency Cardiac Care Certification (ECCC). ECCC must be current and include the following: adult & pediatric CPR, airway obstruction, 2nd rescuer CPR, Automatic External Defibrillator (AED) and barrier devices (e.g., pocket mask, bag valve mask). Organizations that provide the ECCC certification are: CPR/AED for the Professional Rescuer by the American Red Cross or Basic Life Support (BLS) Healthcare Provider CPR by the American Heart Association. A valid Emergency Medical Technician (EMT) card may be substituted for the ECCC requirement.

EFFECTS OF THE BILL

The bill amends the following provisions to s. 468.707, F.S., relating to licensure by examination for the profession of athletic training:

- Requires the completion of an approved athletic training curriculum from an accredited college or university, or a program approved by the board; and removes specific coursework requirements;
- Removes all requirements of direct supervision under a certified athletic trainer, and that the applicant must have practiced athletic training 3 out of the last 5 years; and removes the alternative to the direct supervision, that allows an individual to be certified by the National Athletic Trainers' Association or a comparable national athletic standards organization; and
- Removes a grandfather clause that was created as an alternative pathway for licensure to individuals prior to October 1, 1996.

The bill amends s. 468.711, F.S., to delete the requirement that at the time of licensure renewal an athletic trainer must be certified in standard first aid.

The bill amends s. 468.723, F.S., to delete an exemption that allows a teacher apprentice trainer I and II or teacher athletic trainer, pursuant to s. 1012.46, F.S., from performing similar duties of an athletic trainer. According to the Department of Education this language is no longer necessary since the employment classification of teacher apprentice trainer I and II are not used in s. 1012.46, F.S.

Section 1012.46, F.S., deals with the employment classifications of a first responder and teacher athletic trainer as part of school districts athletic injuries prevention and treatment program. The goal, at the time of inception, was to have school districts employ and have available a full-time teacher athletic trainer in each high school in the state.

The bill amends s. 1012.46, F.S., to remove first responders and teacher athletic trainers as employment classifications within a school district's athletic injuries prevention and treatment program. The bill provides that a licensed athletic trainer *may* possess certification as an educator. So, a fully licensed athletic trainer employed by a school district is not required to have a teaching certificate issued by the Department of Education unless he or she is providing instruction. According to the Department of Education, this provides greater flexibility to school districts in the employment of licensed athletic trainers.

C. SECTION DIRECTORY:

Section 1. Amends s. 468.707, F.S., to revise licensure by examination requirements.

Section 2. Amends s. 468.711, F.S., to revise licensure renewal and continuing education requirements.
Section 3. Amends s. 468.723, F.S., to provide that a person employed as an apprentice trainer or athletic trainer is not exempt from part XIII of ch. 468, F.S.
Section 4. Amends s. 1012.46, F.S., to provide for the replacement of teacher athletic trainers by licensed athletic trainers; remove a first responder classification; require that an athletic trainer employed by a school district must be licensed; and remove the provision that they must be certified as an educator.
Section 5. Provides that the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

n

C. DRAFTING ISSUES OR OTHER COMMENTS:

DRAFTING ISSUE:
Section 456.017(1)(c), F.S., prohibits the Department of Health and boards from administering a state-developed written examination if a national examination is available. On line 51, the bill provides "has passed an examination administered or approved by the board." It may be advantageous to update the language by removing the reference to "administered."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 4, 2006, the Health Care Regulation Committee adopted two amendments offered by the bill's sponsor. The Committee Substitute differs from the original bill as filed in that it:

- Includes technical amendment to s. 468.711(1), F.S., in Section 2 of the bill to replace "part" with "section"; and
- Adds the American Heart Association as an entity recognized to provide training in cardiovascular pulmonary resuscitation.

The bill, as amended, was reported favorably as a committee substitute. This analysis is drafted to the committee substitute.

CHAMBER ACTION

The Health Care Regulation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to athletic trainers; amending s. 468.707, F.S.; revising the requirements for licensure as an athletic trainer; amending s. 468.711, F.S.; revising the criteria for continuing education in athletic training; amending s. 468.723, F.S.; providing that a person employed as an apprentice trainer or athletic trainer is not exempt from part XIII of ch. 468, F.S.; amending s. 1012.46, F.S.; deleting the classification of first responder in a school district's athletic injuries prevention and treatment program; requiring that an athletic trainer employed by a school district be licensed as an athletic trainer; deleting a requirement that such person possess certain certification as an educator; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 468.707, Florida Statutes, is amended to read:

468.707 Licensure by examination; requirements.--

(1) Any person desiring to be licensed as an athletic trainer shall apply to the department on a form approved by the department.

~~(a)~~ The department shall license each applicant who:

(a)~~1.~~ Has completed the application form and remitted the required fees.

(b)~~2.~~ Is at least 21 years of age.

(c)~~3.~~ Has obtained a baccalaureate degree from a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the board.

(d)~~4.~~ Has completed an approved athletic training curriculum ~~coursework~~ from a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the board~~, in each of the following areas, as provided by rule: health, human anatomy, kinesiology/biomechanics, human physiology, physiology of exercise, basic athletic training, and advanced athletic training~~.

(e)~~5.~~ Has current certification in ~~standard first aid and~~ cardiovascular pulmonary resuscitation from the American Red Cross, American Heart Association, or an equivalent certification as determined by the board.

~~6. Has, within 2 of the preceding 5 years, attained a minimum of 800 hours of athletic training experience under the direct supervision of a licensed athletic trainer or an athletic trainer certified by the National Athletic Trainers' Association or a comparable national athletic standards organization.~~

(f)~~7.~~ Has passed an examination administered or approved by the board.

~~(b) The department shall also license each applicant who:~~

~~1. Has completed the application form and remitted the required fees no later than October 1, 1996.~~

~~2. Is at least 21 years of age.~~

~~3. Has current certification in standard first aid and cardiovascular pulmonary resuscitation from the American Red Cross or an equivalent certification as determined by the board.~~

~~4.a. Has practiced athletic training for at least 3 of the 5 years preceding application; or~~

~~b. Is currently certified by the National Athletic Trainers' Association or a comparable national athletic standards organization.~~

Section 2. Section 468.711, Florida Statutes, is amended to read:

468.711 Renewal of license; continuing education.--

(1) The department shall renew a license upon receipt of the renewal application and fee, provided the applicant is in compliance with the provisions of this section ~~part~~, chapter 456, and rules promulgated pursuant thereto.

(2) The board may, by rule, prescribe continuing education requirements, not to exceed 24 hours biennially. The criteria

for continuing education shall be approved by the board and shall include a current certificate in ~~include 4 hours in standard first aid and~~ cardiovascular pulmonary resuscitation from the American Red Cross or equivalent training as determined by the board.

(3) Pursuant to the requirements of s. 456.034, each licensee shall complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure.

Section 3. Section 468.723, Florida Statutes, is amended to read:

468.723 Exemptions.--~~Nothing in~~ This part does not prevent or restrict ~~shall be construed as preventing or restricting~~:

(1) The professional practice of a licensee of the department who is acting within the scope of such practice.

(2) An athletic training ~~A~~ student ~~athletic trainer~~ acting under the direct supervision of a licensed athletic trainer.

~~(3) A person employed as a teacher apprentice trainer I, a teacher apprentice trainer II, or a teacher athletic trainer under s. 1012.46.~~

(3) ~~(4)~~ A person from administering standard first aid treatment to an athlete.

(4) ~~(5)~~ A person licensed under chapter 548, provided such person is acting within the scope of such license.

(5) ~~(6)~~ A person providing personal training instruction for exercise, aerobics, or weightlifting, if the person does not represent himself or herself as able to provide "athletic

trainer" services and if any recognition or treatment of injuries is limited to the provision of first aid.

Section 4. Section 1012.46, Florida Statutes, is amended to read:

1012.46 Athletic trainers.--

(1) School districts may establish and implement an athletic injuries prevention and treatment program. Central to this program should be the employment and availability of persons trained in the prevention and treatment of physical injuries that ~~which~~ may occur during athletic activities. The program should reflect opportunities for progressive advancement and compensation in employment as provided in subsection (2) and meet certain other minimum standards developed by the Department of Education. The goal of the Legislature is to have school districts employ and have available a full-time ~~teacher~~ athletic trainer in each high school in the state.

~~(2) To the extent practicable, a school district program should include the following employment classification and advancement scheme:~~

~~(a) First responder.--To qualify as a first responder, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 1012.56, be certified in cardiopulmonary resuscitation, first aid, and have 15 semester hours in courses such as care and prevention of athletic injuries, anatomy, physiology, nutrition, counseling, and other similar courses approved by the Commissioner of Education. This person may only administer first aid and similar care.~~

(2) ~~(b) Teacher athletic trainer.~~ To qualify as an ~~a teacher~~ athletic trainer, a person must be licensed as required by part XIII of chapter 468 and may possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 1012.35, s. 1012.56, or s. 1012.57~~, and be licensed as required by part XIII of chapter 468~~.

Section 5. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 577 CS Medicaid Comprehensive Geriatric Fall Prevention Program
SPONSOR(S): Garcia
TIED BILLS: **IDEN./SIM. BILLS:** SB 1000

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder & Long-Term Care Committee	8 Y, 0 N	DePalma	Walsh
2) Health Care Appropriations Committee	11 Y, 0 N, w/CS	Speir	Massengale
3) Health & Families Council		DePalma	Moore
4)			
5)			

SUMMARY ANALYSIS

HB 577 CS creates s. 409.91212, F.S., entitled the "Medicaid comprehensive geriatric fall prevention program," and directs the Agency for Health Care Administration (AHCA) to establish a Medicaid comprehensive geriatric fall prevention program in Miami-Dade County.

The bill requires AHCA to evaluate the cost-effectiveness and clinical effectiveness of the program before reporting its findings to the President of the Senate and the Speaker of the House of Representatives by January 1, 2009.

The bill provides for reimbursement on the same basis as provided for under the demonstration project contracts. Beginning in the third year of program implementation, however, services are to be reimbursed only on a capitated, risk-adjusted basis.

This bill will only take effect if a specific appropriation is made in the General Appropriation Act for Fiscal Year 2006-2007. The total cost of funding the Medicaid comprehensive geriatric fall prevention program is $6.5 million ($2.7 million General Revenue).

The bill provides for an effective date of July 1, 2006, if an appropriation is made to fund the Medicaid comprehensive geriatric fall prevention program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill requires the Agency for Health Care Administration to establish a Medicaid comprehensive geriatric fall prevention program in Miami-Dade County.

Empower Families—Potentially, the fall prevention and education features of the bill might have the effect of enabling more Medicaid-eligible seniors to remain in community-based settings, thereby avoiding placement in various nursing and long-term care facilities, as well as decreasing reliance on more expensive Medicaid programs.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

The Incidence and Complications of Geriatric Falls

Nationally, 12 million seniors fall each year.[1] In recent years, Florida has the second highest incidence of deaths because of geriatric falls in the United States.[2] Statewide, there were 51,079 hospital discharges for falls involving seniors 65 and older in 2004, resulting in an average hospitalization of 5.1 days, an average charge per stay of $28,018 and a total cost of $1,431,148,249.[3]

Moreover, the frequency and severity of geriatric falls is most pronounced for seniors in nursing homes and other long-term care facilities. While roughly one-third of seniors fall annually, as many as three-fourths of nursing home residents experience fall-related injuries every year.[4] A typical 100-bed nursing facility annually reports between 100-200 resident falls, while many other falls remain unreported.[5]

Deteriorating health conditions are partially responsible for increases in the frequency and severity of geriatric falls, as a senior's balance can be substantially affected by diabetes, heart disease, and poor circulation, or by medical complications affecting a senior's thyroid or nervous system.[6] The likelihood of a severe fall episode is further increased through the routine administration of medicines, and the consequences of a fall are greatly exacerbated by a senior's osteoporosis, a disease which leaves the body's bones thin and brittle, and more susceptible to easy breaks—including hip fractures.[7] Of all fall-

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[1] Testimony before United States Senate Subcommittee on Aging of David W. Fleming, Acting Director of Centers for Disease Control and Prevention, June 11, 2002, available at: http://www.cdc.gov/washington/testimony/ag061102.htm.
[2] *The State of Florida Medicaid Geriatric Fall Prevention Project; Request for Proposals*, Agency for Health Care Administration, Division of Medicaid.
[3] As reported by the Agency for Health Care Administration, using diagnosis codes E880 – E888.9. These figures only represent inpatient discharges, and not emergency department visits not resulting in an inpatient stay. Moreover, total costs reported do not include rehabilatory and accompanying costs associated with a fall, and do not include other long-term consequences of fall-related injuries, such as disability, decreased productivity or reduced quality of life.
[4] *A Tool Kit to Prevent Senior Falls: Falls in Nursing Homes*, accessed January 24, 2005, National Center for Injury Preventions and Control, Department of Health and Human Services Centers for Disease Control and Prevention, available at: http://www.cdc.gov/ncipc/factsheets/nursing.htm.
[5] Ibid.
[6] *Age Page: Preventing Falls and Fractures*, accessed January 24, 2005, National Institute on Aging, available at: http://www.niapublications.org/agepages/PDFs/Preventing_Falls_and_Fractures.pdf.
[7] Ibid.

related fractures, hip fractures result in the greatest number of deaths and are responsible for the most diminished quality of life following recovery.[8]

In a 2002 request for proposals to implement a Medicaid Geriatric Fall Prevention Demonstration Project, the Agency for Health Care Administration noted that "[f]alls and their aftermath are directly correlated with the increased utilization of health care services and increased health care costs."[9] Among seniors age 75 and older, those experiencing a fall are four to five times more likely to be admitted to a long-term care facility for a period exceeding one year,[10] and hospital stays are almost two times as long for elderly patients who are hospitalized after a fall than for other elders admitted for another reason.[11] The National Center for Injury Prevention and Control has indicated that the total cost of all fall-related injuries to seniors age 65 and older to be $27.3 billion, and by 2020 this figure is estimated to reach $43.8 billion nationally.[12] In Florida, the direct medical and long-term care costs associated with fall-related injuries was approximately $1.8 billion in 2000, and the per-fall cost to seniors age 65 and older was $10,186.[13]

Florida Injury Prevention Program for Seniors (FLIPS)

The Florida Injury Prevention Program for Seniors (FLIPS) is an education and awareness initiative that focuses on preventing injuries from falls and fires. The program is an interdepartmental, collaborative partnership effort among the Department of Elder Affairs, Department of Health and the Fire Marshal's Office of the Department of Financial Services that coordinates with various universities, the Florida Student Nurses Association, hospitals, county health departments and many other local agencies and organizations.

Presently, the program actively pursues "cost-avoidance activities" by conducting training workshops throughout the state, and disseminates injury prevention information to agencies serving Florida's seniors, families, friends and caregivers through operation of its "FLIPS Clearinghouse." Additionally, although the program itself does not provide direct services to high-risk individuals, the clearinghouse provides resources for case managers, social workers, home health care nurses and other individuals who deliver care to homebound seniors. Some of the brochures published by FLIPS include:

- "What Is FLIPS?"
- "Afraid of Falling Down? Try Tai Chi"
- "Medication & Poison for Elders"
- "Can Eating Right Prevent Falls?"

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[8] *Falls and Hip Fractures Among Older Adults*, accessed January 24, 2005, National Center for Injury Preventions and Control, Department of Health and Human Services Centers for Disease Control and Prevention, available at: http://www.cdc.gov/ncipc/factsheets/falls.htm..

[9] *The State of Florida Medicaid Geriatric Fall Prevention Project; Request for Proposals*, Agency for Health Care Administration, Division of Medicaid.

[10] *Falls and Hip Fractures Among Older Adults*, National Center for Injury Preventions and Control, Department of Health and Human Services Centers for Disease Control and Prevention.

[11] *Falls in the Elderly*, American Family Physician, American Academy of Family Physicians.

[12] *A tool kit to Prevent Senior Falls: the Costs of Fall Injuries Among Older Adults*, accessed January 24, 2005, National Center for Injury Preventions and Control, Department of Health and Human Services Centers for Disease Control and Prevention, available at: http://www.cdc.gov/ncipc/factsheets/fallcost.htm. The Center includes in its calculations out-of-pocket expenses and charges paid by insurance companies for the treatment of fall-related injuries, and notes that the figures do not account for the long-term consequences of fall-related injuries, such as disability, decreased productivity or reduced quality of life.

[13] *Falls Among Older Persons and the Role of the Home: An Analysis of Cost, Incidence, and Potential Savings from Home Modification*, AARP Public Policy Institute, available at: http://assets.aarp.org/rgcenter/il/ib56_falls.pdf. The AARP notes that, in 2000, 137,954 falls *requiring visits to an emergency department* were observed among the approximately 2,755,000 million seniors age 65 and older in Florida.

Medicaid Geriatric Fall Prevention Demonstration Project

Scope of the Demonstration Project

In September 2002, AHCA prepared a request for proposals to design and implement a comprehensive, multi-faceted geriatric fall prevention program to "assist community-based Medicaid beneficiaries age 65 and older that are at high risk of falling to reduce their individual risk factors to prevent falls and permit them to remain in a community-based setting."[14] AHCA further indicated that the program "should be designed to reduce the incidence, severity, and Medicaid costs associated with geriatric falls; maximize mobility; and maintain autonomy," and the successful contract bidder should have "a thorough understanding of the Medicaid population, geriatric fall risks, and risk mitigation strategies."[15]

In its request for proposals, AHCA detailed several possible program components to be provided by the contractor,[16] including, among others:

- developing guidelines to assist AHCA and other health professionals in their assessment of an elder's fall risk;
- providing fall preventive education to community-based elders at risk of fall;
- creating a risk-screening assessment;
- providing at-risk elders with fall prevention information, literature and education, and maintaining frequent follow-up contact with at-risk elders;
- conducting home safety evaluations;
- completing an individualized care plan for at-risk elders;
- making referrals to health professionals when medical conditions or drug interactions are suspected but may be untreated; and
- working with various community organizations to organize fall prevention clinics.

Implementation of the Demonstration Project

At the direction of the Legislature[17] in Fiscal Year 2002-2003, AHCA competitively procured a two-year contract with The ElderCare Companies, Inc., to implement and coordinate operation of a Medicaid Geriatric Fall Prevention Project. The program was operational from February 19, 2003 through June 14, 2003 in Broward and Miami-Dade counties, but was eventually terminated when funding was not appropriated by the Legislature in Fiscal Year 2003-04. Although the program was designed to serve an average monthly caseload of up to 6,000 Medicaid-eligible participants, only 2,320 seniors were actually screened. Of those that were screened, 1,984 participants were found at high risk of falling and 1,738 received intensive services during the project's initial three months of operation.[18]

The demonstration project was reinstated in 2004 with an appropriation by the Legislature.[19] AHCA entered into a sole-source contact (M0509)[20] with The ElderCare Companies, for the period September 15, 2004 though June 30, 2006, to continue the work begun under the previous contract. Services

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[14] *The State of Florida Medicaid Geriatric Fall Prevention Project; Request for Proposals*, Agency for Health Care Administration, Division of Medicaid.

[15] Ibid.

[16] Although recommended components were supplied by the RFP, it also noted that the contractor was "encouraged to present a model fall prevention and risk reduction program that can serve as a best practice model and reflects the latest literature on best practices/programs."

[17] In the FY 2002-03 General Appropriations Act (Chapter 2002-394, L.O.F.), state funding and federal Medicaid funding were appropriated for demonstration projects intended "to reduce geriatric falls among community-based Medicaid recipients."

[18] *Summary of Governor's FY 2004-05 Budget Recommendations*, Agency for Health Care Administration.

[19] FY 2004-05 General Appropriations Act (Chapter 2004-268, L.O.F.).

[20] This was a fixed-price contract in the amount of $4,824,000 per year to serve 6,000 Medicaid eligible elders, at an average cost of $804 per recipient per year.

were again provided to more than 6,000 Medicaid-eligible seniors[21] broadly representative of the Medicaid population of Broward and Miami-Dade counties, and some preliminary analyses of outcomes were conducted. The services provided by the project to these elders included:

- conducting multi-phase fall risk assessments;
- coordinating hundreds of group fall prevention workshops at housing complexes, churches and social service agencies;
- mailing 12 "safety-grams" per year to each participant;
- placing 12 reassurance and research telephone calls per year to each participant;
- holding several nutrition and exercise workshops;
- communicating the results of risk-screening assessments to all participants through initial mailings;
- providing to patients' physicians the following: (1) a client review, (2) case planning documents and, (3) notification of the availability of visiting fall prevention experts in Broward and Miami-Dade counties; and
- providing post-fall counseling, fear-of-fall counseling, and fall prevention workbooks in several different languages, including English, Spanish, Creole and Russian.

However, in June 2005 the appropriation necessary for continuation of the demonstration project was vetoed by the Governor, and the contract was terminated.

Results of the Demonstration Project and Potential Program Savings

The ElderCare Companies submitted results from its Medicaid geriatric fall prevention demonstration project to AHCA for review, following confirmation by vendors and subcontractors, and subject to an independent CPA audit.[22]

The ElderCare Companies reported measuring the clinical effectiveness and savings achieved by the fall prevention demonstration project though a "multi-method validation study" that equally weighted treatment and control groups. From January 2003 through June 2005, The ElderCare Companies reported the following figures versus proportionate mirror control groups:

- 54% reduction in hospitalizations due to fall-related fractures.
- 63% reduction in nursing home stays following an injurious fall.
- 60% reduction in long-term care costs, per case.
- 57% reduction in overall hospitalizations following an injurious fall.
- 21% reduction in hospitalization costs, per case.
- 35% reduction in inpatient rehabilitation costs.

EFFECT OF PROPOSED CHANGES

HB 577 CS creates s. 409.91212, F.S., entitled "Medicaid comprehensive geriatric fall prevention program," requiring AHCA to establish a Medicaid comprehensive geriatric fall prevention program in Miami-Dade County. The program, intended to expand upon the geriatric fall prevention demonstration project developed under state contracts awarded by AHCA in 2002 shall be evidence-based, serve 8,000 Medicaid recipients age 60 and older during the first year of operation, and be in operation within 120 days of the act's effective date.

The bill requires AHCA to evaluate the cost-effectiveness and clinical effectiveness of the program in a report submitted to the President of the Senate and the Speaker of the House of Representatives by

[21] 6,702 Medicaid elders were recruited for the reinstated demonstration project, while 6,564 Medicaid-eligible seniors received multi-phase fall risk assessments.

[22] *A Comprehensive Geriatric Fall Prevention Program for All of Florida Medicaid's Community-Resident Elders: Establishing a Statewide, Permanent, Single-Vendor System*, August 2005, The ElderCare Companies, Inc.

January 1, 2009. If such report indicates the program is cost-effective and clinically effective, it shall also include a plan and timetable for statewide implementation. AHCA is required to consider findings from program evaluations and site visit reports of the demonstration project while evaluating the program's cost-effectiveness and clinical effectiveness.

The bill provides for reimbursement of services on the same basis as provided for under previous demonstration project contracts. Beginning on the first day of operation in the third year of program implementation, however, services are to be reimbursed only on a capitated, risk-adjusted basis.

The entire act is subject to a specific appropriation to fund the Medicaid comprehensive geriatric fall prevention program being made in the General Appropriations Act for Fiscal Year 2006-2007. If such an appropriation is made, the bill will be effective July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Creates s. 409.91212, F.S., entitled "Medicaid comprehensive geriatric fall prevention program"; directs the Agency for Health Care Administration to establish a Medicaid comprehensive geriatric fall prevention program in Miami-Dade County; indicates such program shall expand a separate demonstration project; directs the agency to evaluate and report on the cost-effectiveness and clinical effectiveness of the program by January 1, 2009; provides guidelines for reimbursement.

Section 2. Makes the entire act subject to an appropriation in the General Appropriations Act.

Section 3. Provides an effective date of July 1, 2006 if an appropriation is made.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Federal financial participation in the Florida Medicaid Program for State Fiscal Year 2006-2007 is 58.77 percent; for every $1 the state spends, it earns $1.43 in federal funds.

2. Expenditures:

Non-recurring	2006-2007	2007-2008
Professional Staff		
General Revenue Fund	$1,305	$0
Administrative Trust Fund	$1,305	$0
Recurring	2006-2007	2007-2008
Medical/Health Care Program Analyst (1 FTE)		
General Revenue Fund	$31,330	$31,330
Administrative Trust Fund	$31,330	$31,330
Geriatric Fall Services		
General Revenue Fund	$2,683,886	$2,683,886
Medical Care Trust Fund	$3,779,443	$3,779,443
Total Expenditures		

General Revenue Fund	$2,685,191	$2,683,886
Medical Care Trust Fund	$3,779,443	$3,779,443
Administrative Trust Fund	$32,635	$31,330

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

HB 577 CS apparently requires AHCA to contract with one or more private entities to re-establish a Medicaid comprehensive geriatric fall prevention program in Miami-Dade County, in a manner consistent with previous geriatric fall prevention demonstration projects developed under state contracts awarded by AHCA in 2002.

D. FISCAL COMMENTS:

The entire act is subject to a specific appropriation in the General Appropriations Act for Fiscal Year 2006-2007.

Additionally, the only state estimate of cost savings generated through the demonstration project is contained in the Summary of Governor's FY 2004-05 Budget Recommendations. In this document, AHCA projected that implementation of the demonstration project would produce $1,048,900 in general Medicaid cost savings, and an additional $5,872,900 in savings from nursing home cost avoidance. This represented a gross savings of $6,921,800.

Overall, the ElderCare Companies has reported that, for the period of January 2003 through June 2005, the demonstration project saved the state $17,445,240 on an initial investment of $7236,000 for a rate of return of $2.41 for every $1 invested in the project, and a total net savings to Florida Medicaid of $10,210,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

AHCA raises several points of concern in their analysis of HB 577 CS. First, the agency notes that it is unclear whether the bill requires AHCA to competitively procure the Medicaid comprehensive geriatric

fall prevention program, or whether the agency is simply required to award a sole-source contract to the previous contractor. The agency notes that, if it is to competitively procure this program, it may prove difficult to have the program fully operational within the 120 days mandated by the legislation.

Moreover, AHCA reports being uncertain of the need for altering the reimbursement schedule, beginning in the program's third year of operation, to a "capitated, risk-adjusted" calculation. The agency notes it is unsure "what services the contractor would be at risk for, as the only service provided is geriatric fall prevention." Similarly, the Department of Elderly Affairs (DOEA) notes that the reimbursement schedule provided in the bill, which currently states reimbursement shall "be on the same basis as provided for under the demonstration project contracts described in subsection (1)," would be clarified through inclusion of the exact reimbursement rates contained in the previous demonstration project contracts.

AHCA reports the bill does not provide sufficient information to determine the scope of work required to conduct the required evaluation of the program's cost-effectiveness and clinical effectiveness, the number of years such evaluation should encompass, or the number of subjects to be evaluated.

Finally, s. 1902(a)(23) of the Social Security Act[23] provides that an individual may receive Medicaid services from any qualified provider willing to furnish such services. However, AHCA notes that the language of the bill is unclear as to whether recipients may freely choose a provider from which to receive certain geriatric fall prevention services. The bill only references an expansion of previously-awarded demonstration project contracts, and does not specify whether the geriatric fall prevention program may be provided through sources other than those with whom the agency previously contracted. At present, the Managed Care Pilot Program authorized by CMS permits the state to waive the requirements of s. 1902(a)(23) under certain circumstances. However, those circumstances do not currently include the provision of geriatric fall prevention services. Accordingly, AHCA reports it may need to seek additional waiver authority to implement a Medicaid comprehensive geriatric fall prevention program.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its April 11, 2006 meeting the Health Care Appropriations Committee adopted two amendments to House Bill 577. The amendments did the following:

- Removed Broward County as a location for the program.
- Removed language that provided legislative intent for incorporation of the program into the Medicaid program, and inclusion of the program as a requirement for certification or credentialing of health plans participating in either Florida Senior Care, per s. 409.912(5), F.S., or the Medicaid managed care pilot program, per s. 409.91211, F.S.
- Made the act subject to a specific appropriation being made in the General Appropriations Act for Fiscal Year 2006-2007.

The committee favorably reported a committee substitute, and this analysis is drafted to the committee substitute.

[23] 42 U.S.C.A. § 1396a.

CHAMBER ACTION

The Health Care Appropriations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to a Medicaid comprehensive geriatric fall prevention program; creating s. 409.91212, F.S.; requiring the Agency for Health Care Administration to establish a Medicaid comprehensive geriatric fall prevention program; directing the agency to develop the program as an expansion of a certain pilot project conducted in Miami-Dade County; requiring the agency to evaluate the program and report to the Legislature; requiring a plan and timetable for statewide implementation contingent upon certain findings; specifying a timeframe for implementing a certain form of reimbursement; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 409.91212, Florida Statutes, is created to read:

409.91212 Medicaid comprehensive geriatric fall prevention program.--

(1)(a) The Agency for Health Care Administration shall establish a Medicaid comprehensive geriatric fall prevention program in Miami-Dade County. The program shall be evidence based and shall expand the geriatric fall prevention demonstration project awarded under contract in 2002 by the Agency for Health Care Administration. The program shall serve 8,000 Medicaid recipients 60 years of age or older during the first year of operation and shall be in operation within 120 days after the effective date of this act.

(b) The agency shall evaluate the cost-effectiveness and clinical effectiveness of the program and report its findings to the President of the Senate and the Speaker of the House of Representatives by January 1, 2009. If the findings indicate the program is cost-effective and clinically effective, the report shall include a plan and timetable for statewide implementation. In evaluating the cost-effectiveness and clinical effectiveness of the program, the agency must consider findings from program evaluations and site visit reports relating to the demonstration project described in paragraph (a).

(2) Services provided under subsection (1) shall be reimbursed on the same basis as provided for under the demonstration project contracts described in subsection (1). Beginning on the first day of operation in the third year of program implementation, as authorized under this section, services shall be reimbursed only on a capitated, risk-adjusted basis.

Section 2. This act shall take effect July 1, 2006, only if a specific appropriation to fund the Medicaid comprehensive geriatric fall prevention program is made in the General Appropriations Act for fiscal year 2006-2007.

Amendment to HB 577 CS by Rep. Garcia

Amendment #1 conforms HB 577 CS to the CS for SB 1000, and specifies that the comprehensive geriatric fall prevention program for Medicaid recipients in Miami-Dade County shall serve up to 7,000 Medicaid recipients during the first year of operation.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 577 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Health & Families Council

Representative(s) Garcia offered the following:

Amendment

Remove line(s) 26-34 and insert:

(1)(a) The Agency for Health Care Administration shall establish a comprehensive geriatric fall prevention program for Medicaid recipients in Miami-Dade County. The program shall be evidence-based and shall expand the geriatric fall prevention demonstration project awarded under contract in 2002 by the Agency for Health Care Administration. The program shall serve up to 7,000 Medicaid recipients during the first year of operation and shall be in operation within 120 days after the effective date of this act.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 619 CS Florida Substance Abuse and Mental Health Corporation
SPONSOR(S): Gibson and others
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1286

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families Committee	7 Y, 0 N	Davis	Collins
2) Health Care Appropriations Committee	15 Y, 0 N, w/CS	Ekholm	Massengale
3) Health & Families Council		Davis	Moore
4)			
5)			

SUMMARY ANALYSIS

House Bill 619 CS amends existing statutory provisions relating to the Florida Substance Abuse and Mental Health Corporation (corporation). Specifically, the bill modifies the responsibilities of the corporation and it changes the sunset date of the corporation from October 1, 2006, to October 1, 2011.

The bill modifies the responsibilities of the Substance Abuse and Mental Health Corporation to focus its efforts to improve interagency coordination of substance abuse and mental health services to ensure these services promote recovery and resiliency-based systems of care. The bill also clarifies board membership and includes a definition of a primary consumer member.

According to a March 2005 Office of Program Policy Analysis & Government Accountability (OPPAGA) report, the corporation has not worked closely with other state agencies involved with the substance abuse and mental health systems to address its eight statutory responsibilities. The corporation is scheduled to sunset on October 1, 2006, unless reenacted by the Legislature. According to the OPPAGA report, the corporation's work during 2004 shows useful beginning steps; however, it will be difficult to justify its continued existence unless it more fully addresses its statutory responsibilities. OPPAGA released a follow up to this report in March 2006 which recommended that the focus of the corporation be narrowed in order to improve its effectiveness.

The bill has no fiscal impact to state and local government.

This act shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—This bill modifies the responsibilities of the Florida Mental Health and Substance Abuse Corporation.

B. EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes

House Bill 619 CS amends existing statutory provisions relating to the Florida Substance Abuse and Mental Health Corporation (corporation). Specifically, the bill modifies responsibilities for the corporation to exercise and it changes the sunset date from October 1, 2006, to October 1, 2011.

The bill specifies that the corporation shall direct efforts designed to improve interagency coordination of substance abuse and mental health services in order to ensure that these services promote recovery and resiliency-based systems of care. The corporation is to provide oversight of the publicly funded substance abuse and mental health systems and make policy and resource recommendations. The bill also clarifies board membership and includes a definition of a primary consumer member.

The corporation gave priority to the concept of transforming the mental health system. It took the lead in, and worked hand in hand with, state agency management to ensure the mental health system in Florida is transformed from a preferred-provider system to a consumer driven system embracing prevention, resiliency, and recovery for children, adults and families. According to the corporation, this transformation must ensure that services are directed to the needs and goals of reintegrating consumers into the community where they can successfully live, work, go to school, and enjoy life.

Background

The corporation, which is administratively housed within the Department of Children and Families, has two employees, an executive director and an administrative assistant. The corporation is governed by a 12-member board of directors appointed by the Governor, the Speaker of the House, and the President of the Senate.

The idea of an independent entity to provide leadership and oversight for the publicly-funded mental health and substance abuse systems came out of the Governor's 1999 Commission on Mental Health and Substance Abuse. The commission recommended a coordinating council, which would include secretaries from relevant agencies and key constituency groups as its members. The commission recommended that the coordinating council be responsible for information collection, accountability management, public education, and policy development. These are the essential core responsibilities of the current Florida Substance Abuse and Mental Health Corporation.

During the 2003 Legislature, many mental health and substance abuse stakeholders were advocating for the substance abuse and mental health program offices to be placed in the Department of Health or made into separate state agency (as was done with developmental disabilities). The creation of the

corporation, as well as the creation of an Assistant Secretary position for substance abuse and mental health in the Department of Children and Families, were codified in an effort to create higher visibility for substance abuse and mental health issues.

The 2003 Legislature created the Substance Abuse and Mental Health Corporation to oversee the state's publicly funded substance abuse and mental health systems and make policy and resource recommendations to improve the coordination, quality, and efficiency of the systems. The corporation is a not-for-profit organization independent of state government and is to annually evaluate and report on the status of the state's substance abuse and mental health systems.

The corporation has the following eight statutory responsibilities:

1. Review and assess the collection and analysis of needs assessment data as described in section 394.82, Florida Statutes.

2. Review and assess the status of the publicly funded mental health and substance abuse systems and recommend policy designed to improve coordination and effectiveness.

3. Provide mechanisms for substance abuse and mental health stakeholders, including consumers, family members, providers, and advocates to provide input concerning the management of the overall system.

4. Recommend priorities for service expansion.

5. Prepare budget recommendations to be submitted to the appropriate departments for consideration in the development of their legislative budget requests and provide copies to the Governor, President of the Senate, and Speaker of the House for their consideration.

6. Review data regarding the performance of the publicly funded substance abuse and mental health systems.

7. Make recommendations concerning strategies for improving the performance of the systems.

8. Review, assess and forecast substance abuse and mental health manpower needs and work with the department and the educational system to establish policies, consistent with the direction of the Legislature, which will ensure that the state has the personnel it needs to continuously implement and improve its services.

The 2004 Legislature directed the corporation in its first report to provide a specific analysis of managed care behavioral health care contracts, and the impact of these contracts on the mental health service delivery system in Florida. The corporation completed its report and provided that report to the Agency for Health Care Administration, the Governor and the Legislature.

House Bill 619 CS modifies the mandates of the corporation and specifies that it shall:

1. Identify systemic needs for substance abuse and mental health services and for recovery and resiliency-based systems of care.

2. Identify specific needs for substance abuse and mental health services and for recovery and resiliency-based systems of care for each state agency that funds, purchases, or provides such services.

3. Facilitate improved coordination and collaboration among state agencies that fund, purchase, or provide substance abuse or mental health services in order to support recovery and resiliency-based systems of care.

4. Identify impediments to implementing recovery and resiliency-based systems of care for substance abuse and mental health programs.

This year, the corporation participated in drafting the application for a federal Mental Health Transformation Grant and was designated by Governor Bush to be the lead entity to administer the grant. Florida was not successful in this grant award cycle.

The grant would have required changes in provider contracts, rules and regulations, training and education and amendments to Chapter 394, Florida Statutes, to articulate public policy emphasizing recovery and resiliency in the community and person centered services. The grant also emphasized that Florida must include consumers, families and youth as part of the service delivery teams and treatment planning teams, while utilizing a "strengths model" that focuses on a person's worth and strengths; and increase the use of peer and family support workers.

The grant articulated the need for uniform outcome measures to be developed across state government agencies such as competitive employment, independent living, days in school, graduation from high school, days in the community, reduction in contact with law enforcement, reduction in hospitalizations, and reduction in out of home placements.

One of the major reforms envisioned in the grant was transforming the mental health crisis and emergency response service system to a system in which mobile outreach and immediate crisis response teams where readily available. According to the grant, Florida should reduce the use of state hospital beds and crisis stabilization beds and divert persons with mental illness from the criminal justice system. At the same time, Florida should develop specialized substance abuse and mental health aftercare services for juvenile and adult offenders, and individualize services so that people can resolve crises using minimally intrusive and maximally effective options.

The Corporation is recommending that Governor Bush again apply for a transformation grant when there is another grant cycle. The Corporation would again offer to be the lead entity in administering the grant.

The sunset date in House Bill 619 CS is the date of the last year of the grant if Florida is successful in being awarded a transformation grant.

Research

In March of 2005, OPPAGA released a report studying the corporation. OPPAGA found that the corporation's annual report included many related recommendations pertaining to access to care, quality of care, administration, and financial requirements. However, the corporation did not work closely with other state agencies that are part of the substance abuse and mental health systems to improve the coordination, quality, and efficiency of the systems. Of its eight designated responsibilities, the corporation fully addressed one by providing a forum for stakeholder involvement. It partially met three by reviewing needs assessment data and making policy and strategy recommendations to improve the performance of the systems. It made little progress in four areas. The corporation did not address prioritizing recommendations for service expansion, agency budget recommendations, reviewing agency performance data, or forecasting staffing needs for DCF. According to OPPAGA, the corporation's work during 2004 evinces useful beginning steps. Unless the corporation demonstrates value to the state by more fully addressing its statutory responsibilities during 2005, however, it will be difficult to justify its continued existence.

The Substance Abuse and Mental Health Corporation provided a written response to the 2005 OPPAGA report. In summary, the corporation disagreed with the report's conclusion that the corporation has not addressed fully its statutory responsibilities and stated that its mission was redirected by a stipulation in the General Appropriations Act for Fiscal Year 2004-05 to look at the transition of Medicaid funded behavioral health care services from fee-for-service to managed care. However, based on OPPAGA's analysis of the legislation and discussions with legislative staff, the analysis of managed care contracts was to be in addition to, not in lieu of, the corporation's responsibility to improve the coordination, quality, and efficiency of the substance abuse and mental health systems across state agencies.

OPPAGA has issued a report in March 2006 and recommended that the Legislature narrow the corporation's focus to improving interagency coordination with a specific set of goals for it to achieve (Report No. 06-21).

C. SECTION DIRECTORY:

Section 1: Amends s. 394.655 (3)(a), F.S., modifying responsibilities of the corporation and changing the sunset provision.

Section 2: Amends s. 394.66, F.S., regarding the Legislative intent with respect to substance abuse and mental health services.

Section 3: Provides an effective date upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The corporation provided the following:

For the last two years, the corporation has been funded at $250,000 annually through proviso in the DCF appropriation -- half funded from the Substance Abuse Program Office and the other half from the Mental Health Program Office. The Corporation is requesting the same amount for FY 2006-2007 with an additional $75,000 in matching federal Medicaid dollars. A memorandum of agreement has already been developed between DCF and AHCA to allow for the general revenue dollars to match $75,000 in federal Medicaid dollars. Medicaid allows for some administrative costs for billing.

The appropriation covers two staff positions, the website, office supplies and equipment, publications, staff and board travel.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The corporation has sufficient rulemaking authority in existing law to carry out its current functions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 17, 2006, the Health Care Appropriations Committee adopted a strike-all amendment to this bill which contains provisions to narrow the focus of the Substance Abuse and Mental Health Corporation. The provisions of the amendment are reflected in this analysis.

CHAMBER ACTION

The Health Care Appropriations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to substance abuse and mental health services; amending s. 394.655, F.S.; revising the duties of the Florida Substance Abuse and Mental Health Corporation; requiring the corporation to ensure the provision of services that promote recovery and resiliency-based systems of care; requiring that certain members appointed to the corporation be primary consumers of mental health or substance abuse services or family members of primary consumers of such services; defining the term "primary consumer"; delaying the date when provisions establishing the corporation are scheduled to expire; amending s. 394.66, F.S.; revising and providing additional legislative intent with respect to the substance abuse and mental health services provided by the Department of Children and Family Services and its providers and continuity of care for persons having a

mental illness who are released from a state correctional facility; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (3), (6), and (11) of section 394.655, Florida Statutes, are amended to read:

394.655 The Substance Abuse and Mental Health Corporation; powers and duties; composition; evaluation and reporting requirements.--

(3)(a) The Florida Substance Abuse and Mental Health Corporation shall direct efforts designed to improve interagency coordination of substance abuse and mental health services in order to ensure that these services promote recovery and resiliency-based systems of care. The corporation shall provide oversight of the publicly funded substance abuse and mental health systems and make policy and resource recommendations that will promote system transformation by providing mechanisms for input from stakeholders, including primary consumers, family members, providers, and advocates, concerning the management of the overall system, and that ~~be responsible for oversight of the publicly funded substance abuse and mental health systems and for making policy and resources recommendations which~~ will improve the coordination, quality, and efficiency of the system.

(b) Subject to and consistent with direction set by the Legislature, the corporation shall ~~exercise the following responsibilities~~:

1. Identify systemic needs for substance abuse and mental health services and for recovery and resiliency-based systems of care.

2. Identify specific needs for substance abuse and mental health services and for recovery and resiliency-based systems of care for each state agency that funds, purchases, or provides such services.

3. Facilitate improved coordination and collaboration among state agencies that fund, purchase, or provide substance abuse or mental health services in order to support recovery and resiliency-based systems of care.

4. Identify impediments to implementing recovery and resiliency-based systems of care for substance abuse and mental health programs.

~~1. Review and assess the collection and analysis of needs assessment data as described in s. 394.82.~~

~~2. Review and assess the status of the publicly funded mental health and substance abuse systems and recommend policy designed to improve coordination and effectiveness.~~

~~3. Provide mechanisms for substance abuse and mental health stakeholders, including consumers, family members, providers, and advocates to provide input concerning the management of the overall system.~~

~~4. Recommend priorities for service expansion.~~

~~5. Prepare budget recommendations to be submitted to the appropriate departments for consideration in the development of their legislative budget requests and provide copies to the~~

~~Governor, the President of the Senate, and the Speaker of the House of Representatives for their consideration.~~

~~6. Review data regarding the performance of the publicly funded substance abuse and mental health systems.~~

~~7. Make recommendations concerning strategies for improving the performance of the systems.~~

~~8. Review, assess, and forecast substance abuse and mental health manpower needs and work with the department and the educational system to establish policies, consistent with the direction of the Legislature, which will ensure that the state has the personnel it needs to continuously implement and improve its services.~~

(c) ~~(b)~~ The corporation shall work with the department and the Agency for Health Care Administration to assure, to the maximum extent possible, that Medicaid and department-funded services are delivered in a coordinated manner, using common service definitions, standards, and accountability mechanisms.

(d) ~~(c)~~ The corporation shall also work with other agencies of state government which provide, purchase, or fund substance abuse and mental health programs and services in order to work toward fully developed and integrated, when appropriate, substance abuse and mental health systems that reflect current knowledge regarding efficacy and efficiency and use best practices identified within this state or other states.

(e) ~~(d)~~ The corporation shall develop memoranda of understanding that describe how it will coordinate with other programmatic areas within the department and with other state

agencies that deliver or purchase substance abuse or mental health services.

(6)(a) The corporation shall be comprised of 12 members, each appointed to a 2-year term, with not more than three subsequent reappointments, except that initial legislative appointments shall be for 3-year terms. Four members shall be appointed by the Governor, four members shall be appointed by the President of the Senate, and four members shall be appointed by the Speaker of the House of Representatives.

1. The four members appointed by the Governor must be prominent community or business leaders, two of whom must have experience and interest in substance abuse and two of whom must have experience and interest in mental health.

2. Of the four members appointed by the President of the Senate, one member must represent the perspective of community-based care under chapter 409, one member must be a primary consumer ~~former client~~ or family member of a primary consumer of ~~client of a publicly funded~~ mental health services ~~program~~, and two members must be prominent community or business leaders, one of whom must have experience and interest in substance abuse and one of whom must have experience and interest in mental health.

3. Of the four members appointed by the Speaker of the House of Representatives, one member must be a primary consumer ~~former client~~ or family member of a primary consumer of ~~client of a publicly funded~~ substance abuse services ~~program~~, one member must represent the perspective of the criminal justice system, and two members must be prominent community or business leaders, one of whom must have experience and interest in

substance abuse and one of whom must have experience and interest in mental health. The Secretary of Children and Family Services, or his or her designee, the Secretary of Health Care Administration, or his or her designee, and a representative of local government designated by the Florida Association of Counties shall serve as ex officio members of the corporation.

(b) As used in this subsection, the term "primary consumer" means a person who voluntarily identifies himself or herself as a person who is currently receiving, or has in the past received, mental health or substance abuse services from a public or private provider or agency; who can articulate shared experiences, such as stigmatization, psychotropic medications, suicidal ideation, seclusion or restraint, benefit eligibility, trauma, or violence history, which are similar to the experiences of other persons who have received such services; and who voluntarily acts as an advocate for the improvement of mental health or substance abuse services through his or her vocation or avocation.

(c) ~~(b)~~ The corporation shall be chaired by a member designated by the Governor who may not be a public sector employee.

(d) ~~(c)~~ Persons who derive their income from resources controlled by the Department of Children and Family Services or the Agency for Health Care Administration may not be members of the corporation.

(e) ~~(d)~~ The Governor, the President of the Senate, and the Speaker of the House of Representatives shall make their

respective appointments within 60 days after the effective date of this act.

(f) ~~(e)~~ A member of the corporation may be removed by the appointing party for cause. Absence from three consecutive meetings shall result in automatic removal. The chairperson of the corporation shall notify the appointing party of such absences.

(g) ~~(f)~~ The corporation shall develop bylaws that describe how it will conduct its work.

(h) ~~(g)~~ The corporation shall meet at least quarterly and at other times upon the call of its chair. Corporation meetings may be held via teleconference or other electronic means.

(i) ~~(h)~~ A majority of the total current membership of the corporation constitutes a quorum of the corporation. The corporation may only meet and take action when a quorum is present.

(j) ~~(i)~~ Within resources appropriated by the Legislature and other funds available to the corporation, the chairperson of the corporation may appoint advisory committees to address and advise the corporation on particular issues within its scope of responsibility. Members of advisory committees are not subject to the prohibition in paragraph (d) ~~(c)~~.

(k) ~~(j)~~ Members of the corporation and its committees shall serve without compensation but are entitled to reimbursement for travel and per diem expenses pursuant to s. 112.061.

(l) ~~(k)~~ Each member of the corporation who is not otherwise required to file a financial disclosure statement pursuant to s.

8, Art. II of the State Constitution or s. 112.3144 must file disclosure of financial interests pursuant to s. 112.3145.

(11) This section expires on October 1, 2011 ~~2006~~, unless reviewed and reenacted by the Legislature before that date.

Section 2. Section 394.66, Florida Statutes, is amended to read:

394.66 Legislative intent with respect to substance abuse and mental health services.--It is the intent of the Legislature to:

(1) Ensure that a recovery and resiliency-based substance abuse and mental health system is implemented by the department and its state-funded mental health providers.

(2) ~~(1)~~ Recognize that mental illness and substance abuse impairment are diseases that are responsive to medical and psychological interventions and management that integrate treatment, rehabilitative, and support services to achieve recovery ~~quality and cost-efficient outcomes for clients and for community-based treatment systems~~.

(3) ~~(2)~~ Promote and improve the mental health of the citizens of the state by making substance abuse and mental health treatment and support services available to those persons who are most in need and least able to pay, through a community-based system of care.

(4) ~~(3)~~ Involve local citizens in the planning of substance abuse and mental health services in their communities.

(5) ~~(4)~~ Ensure that the department and the Agency for Health Care Administration work cooperatively in planning and designing comprehensive community-based substance abuse and

mental health programs that focus on the individual needs of persons served ~~clients~~.

(6) ~~(5)~~ Ensure that all activities of the Department of Children and Family Services and the Agency for Health Care Administration, and their respective contract providers, involved in the delivery of substance abuse and mental health treatment and prevention services are coordinated and integrated with other local systems and groups, public and private, such as juvenile justice, criminal justice, child protection, and public health organizations; school districts; and local groups or organizations that focus on services to older adults.

(7) ~~(6)~~ Provide access to crisis services to all residents of the state with priority of attention being given to individuals exhibiting symptoms of acute mental illness or substance abuse.

(8) ~~(7)~~ Ensure that services provided to persons with co-occurring mental illness and substance abuse problems be integrated across treatment systems.

(9) ~~(8)~~ Ensure continuity of care, consistent with minimum standards, for persons who are released from a state treatment facility into the community.

(10) Ensure continuity of care, consistent with minimum standards, for persons with serious and persistent mental illnesses who are released from a state correctional facility into the community.

(11) ~~(9)~~ Provide accountability for service provision through statewide standards for treatment and support services,

and statewide standards for management, monitoring, and reporting of information.

(12) ~~(10)~~ Include substance abuse and mental health services as a component of the integrated service delivery system of the Department of Children and Family Services.

(13) ~~(11)~~ Ensure that the districts of the department are the focal point of all substance abuse and mental health planning activities, including budget submissions, grant applications, contracts, and other arrangements that can be effected at the district level.

(14) ~~(12)~~ Organize and finance community substance abuse and mental health services in local communities throughout the state through locally administered service delivery programs that are based on client outcomes, are programmatically effective, and are financially efficient, and that maximize the involvement of local citizens.

(15) ~~(13)~~ Promote best practices and the highest quality of care in contracted alcohol, drug abuse, and mental health services through achievement of national accreditation.

(16) ~~(14)~~ Ensure that the state agencies licensing and monitoring contracted providers perform in the most cost-efficient and effective manner with limited duplication and disruption to organizations providing services.

Section 3. This act shall take effect upon becoming a law.

Amendment to HB 619 CS by Rep.Gibson

The amendment conforms the bill to the Senate bill by reauthorizing the position of Assistant Secretary for Substance Abuse and Mental Health and the Program Offices of Mental Health and Substance Abuse in the Department of Children and Family Services, as repealed by chapter 2003-279, L.O.F.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **619**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Council/Committee hearing bill: Health and Families Council

Representative(s) Gibson offered the following:

Amendment (with directory and title amendments)

Between line(s) 263 and 264, insert:

Section 3. Section 3 of chapter 2003-279, Laws of Florida, is repealed.

========== T I T L E A M E N D M E N T ==========

Remove line(24)and insert:

facility; repealing s. 3 of ch. 2003-279, Laws of Florida; deleting the expiration date of s. 20.19(2)(c) and (4)(b)6 and 8., F.S., relating to the Mental Health and Substance Abuse Program Offices and the appointment of the Assistant Secretary for Substance Abuse and Mental Health and other personnel; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1623 CS Persons with Disabilities
SPONSOR(S): Bean
TIED BILLS: **IDEN./SIM. BILLS:** SB 1278

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder & Long-Term Care Committee	9 Y, 0 N, w/CS	DePalma	Walsh
2) Fiscal Council	21 Y, 0 N	Ekholm	Kelly
3) Health & Families Council		DePalma	Moore
4)			
5)			

SUMMARY ANALYSIS

HB 1623 CS creates the Interagency Services Committee for Youth and Young Adults with Disabilities within the Agency for Persons with Disabilities. It directs the committee to establish goals to ensure the successful transition to employment or further education of youth and young adults with disabilities and to eliminate barriers that impede educational opportunities leading to future employment.

The bill specifies committee membership, and directs the Department of Children and Family Services, the Department of Education, the Department of Health, and the Agency for Persons with Disabilities to provide staff support to the committee. The bill also provides duties and responsibilities of the committee.

The committee shall present a progress report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007, and a final report detailing committee findings and recommendations by January 1, 2008. The committee is abolished on June 1, 2008.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families—The bill is intended to eliminate barriers to educational opportunities for, and to ensure the successful transition to employment or further education of, youth and young adults with disabilities.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND[1]

Children with disabilities face significant obstacles as they transition out of traditional educational and service arrangements. According to the National Organization on Disability's Harris Survey of Americans with Disabilities:

- young people with disabilities drop out of high school at twice the rate of their peers;
- as many as 90 percent of children with disabilities are living at poverty level three years after graduation;
- 80 percent of people with significant disabilities are not working; and
- currently, only one out of ten persons with a developmental disability will achieve integrated, competitive employment, and most will earn less than $2.40 an hour in a sheltered workshop.[2]

Florida-specific data also reveals disparities in graduation rates and employment opportunities for youths with disabilities. As reported by the Florida Department of Education's Data Warehouse, the graduation rate in 2003-04 for students with disabilities was only 36.6 percent (8,376 out of a total 22,890 disabled students graduated), while 68.6 percent of other, non-disabled students graduated (117,706 out of a total of 171,447 students). Moreover, a mere 12 percent of students with disabilities were enrolled in postsecondary programs,[3] and only 17.5 percent of students with developmental disabilities were employed after leaving secondary schools, with average quarterly earnings of approximately $3,700.

The Individuals with Disabilities Education Act (IDEA) requires that schools provide a free and appropriate education (FAPE) to all students who have not reached age 22 and have not earned a regular high school diploma. A student who graduates with a credential other than a standard diploma, and who chooses to continue to receive FAPE, can continue to generate funding through the Florida Education Financing Program (FEFP) until receiving a standard diploma or "aging out." A student with disabilities ages out when he or she reaches age 22 or completes the school year in which they turn 22. In December 2004, there were 364,877 students ages six to 21 served under IDEA, Part B, representing approximately 15 percent of total public school students.[4]

The transition to adulthood is a difficult process for all adolescents, but such transition presents additional challenges for young people with disabilities. Various transition services and supports are necessary to assist adolescents in adjusting to the change from the home and school environment to independent living and meaningful employment. Students with disabilities often face this process ill-

[1] A substantial portion of the background analysis is patterned after the Senate Staff Analysis to identical Senate Bill 1278, prepared by the Senate Committee on Children and Families.
[2] The 2004 National Organization on Disability/Harris Survey of Americans with Disabilities, www.nod.org
[3] According to 2002 Florida Education and Training Placement Information Program (FETPIP) surveys, as reported by Florida Developmental Disabilities Council, Inc.
[4] Florida Department of Education, Bureau of Exceptional Education and Student Services, http://www.firn.edu/doef

equipped for further vocational training, post secondary education, or securing gainful employment. According to Agency for Persons with Disabilities, some of the barriers to a smooth transition include:

- students leaving school are often placed on a waitlist for adult services, and may not be able to keep a job they had previously obtained in school because of a lack of transitional supports as adults. Medicaid waiver rules require students to return to school for services until age 22 if they have a special education diploma;
- youths with disabilities and their families often are unprepared for the transition from an entitlement program (such as a free and appropriate education) to an adult service system;
- priorities and expectations in the systems serving children and youths with disabilities are very different than the structure of the service and support system for adults, which is primarily focused on community integration;
- commitment to the philosophy of self-determination and choice varies across agencies; in some programs self-determination is the cornerstone of the supports, while other agencies provide fewer choices in services and supports;
- eligibility for services and supports vary by agency, and often support staff and families may be unaware of services for which they are eligible because planning processes are frequently not coordinated;
- Social Security benefits often create a disincentive to work. Individuals on Social Security Disability Income (SSDI) who require supports and health benefits to obtain a job lose eligibility for those services if they make more than $830 per month, thus losing the benefits that enable them to obtain and keep meaningful employment; and
- agencies may have different criteria for providers of the same service. For example, supported employment services can be offered by either not-for-profit or for-profit providers through the Agency for Persons with Disabilities. The Division of Vocational Rehabilitation (DOE), however, requires that such providers be not-for-profit.

Although there are a variety of federal and state programs and agencies with some involvement in meeting the educational and vocational needs of children and adolescents with disabilities, successfully integrating these efforts has proven difficult. Recently, there have been several statewide initiatives focused on helping to identify challenges faced by young adults with disabilities as they transition from high school to adult life, and developing strategies to create an effective transition system. The state agencies involved in these interagency activities include Agency for Persons with Disabilities, the Department of Education, the Department of Children and Families, the Department of Health, the Agency for Health Care Administration, and the Department of Juvenile Justice. A variety of private organizations and individuals have also been involved in these activities, including the Able Trust, the Advocacy Center for Persons with Disabilities, Inc., the ADA Working Group, Center for Autism and Related Disabilities at the University of South Florida, Family Network on Disabilities of Florida, Inc., the Florida Developmental Disabilities Council, Inc., the Florida Independent Living Council, Inc., the Florida Institute for Family Involvement, the Florida Recreation and Parks Association, the Florida Rehabilitation Council, the Florida Schools Health Association, the Transition Center at the University of Florida, the Transition to Independence Process Project, Workforce Florida, Inc., parents, self-advocates, and teachers from throughout the state.[5]

Florida's Partners in Transition

In 2003, a partnership of agencies was formed under the auspices of the Florida Developmental Disabilities Council (FDDC) to identify issues and barriers faced by Florida's disabled youth as they transition from high school to adulthood. The partnership contracted with national experts to examine existing research and documents on transition, and held three public forums. As a result, a workgroup of 40 individuals was put together in March 2003 to review the findings and draft a statewide strategic plan for transition. In September 2003, a team of Florida representatives attended the National Leadership Summit on Improving Results, which provided additional impetus for developing

[5]Florida Partners in Transition, http://partnersintransition.org/members.htm

interagency partnerships for transition planning. Since that time, Florida's Partners in Transition has developed the Florida Strategic Plan on Transition, defining how state agencies, organizations, families, youth, and government programs can work together to reach young Floridians with disabilities in an attempt to support their transition to independence through education, meaningful work and a life in the community. A statewide summit was hosted January 25-26, 2005, for the purpose of providing an opportunity for local level leadership teams to be introduced to the Partners in Transition State Strategic Plan, to host facilitated planning sessions for the implementation of the strategic plan within their areas, and to hear from state and national experts on research-based practices in transition from school to adult life.

The 2006 Summit is scheduled for April 2006 and this year's objectives will be to enhance local level, cross-disciplinary leadership teams' efforts to achieve post-school results for students with disabilities, to develop goals and action steps for local implementation of the Statewide Strategic Plan, and to identify technical assistance needs of Leadership Teams.[6]

Blue Ribbon Task Force (BRTF) on Inclusive Community Living, Transition, and Employment of Individuals with Disabilities

In 2004, the Governor issued Executive Order 04-62, establishing the Florida Blue Ribbon Task Force on Inclusive Community Living, Transition, and Employment of Persons with Developmental Disabilities. The BRTF was charged with evaluating systems, programs, projects, and activities to determine consistency with Federal law, including the Americans with Disabilities Act and the Developmental Disabilities Assistance Act, Individuals with Disabilities Education Act, No Child Left Behind, Rehabilitation Act of 1973, and Bill of Rights for People with Developmental Disabilities.[7] The Governor directed the BRTF to concentrate on implementing strategies that result in improved inclusive community living options, transition outcomes, and employment for people with developmental disabilities so that they may achieve full integration and inclusion in society, in a manner that is consistent with the strengths, resources, and capabilities of each individual.

The BRTF issued a final report in December 2004 with four key recommendations intended to "achieve a system that aligns resources and eliminates barriers to effective transition, integrated employment, and inclusive community living and addresses priority needs of people with developmental disabilities."[8] These recommendations included:

- developing a cost effective, coordinated, comprehensive system of supports and services (accomplished through a BRTF working group);
- developing a transition plan that ensures transition outcome measures, a statewide assessment system that measures year to year progress, an incentive system to reward schools for students achieving employment, and an enhanced data system;
- allocation of a portion of federal Workforce Investment Act state set-aside funds for competitive, integrated employment; and
- an increase in funding to expand the number of persons served by the Home and Community Based Services waiver, and the Family and Supported Living waiver administered by Agency for Persons with Disabilities.

The Blue Ribbon Task Force Implementation Working Group

The Blue Ribbon Task Force Implementation Working Group (BIWG) was established to support the planning and actions necessary to assure that the BRTF recommendations were achieved. In July 2005, Florida was selected as one of six states participating in the National Governors' Association

[6] Florida Developmental Disabilities Council, Florida's Transition Plans Comparison Chart (DRAFT), February 9, 2006.
[7] Florida Blue Ribbon Task Force (BRTF) on Inclusive Community Living, Transition, and Employment of Persons with Developmental Disabilities, Final Report, December 15, 2004.
[8] Ibid, page 6.

(NGA) Policy Academy on Improving Outcomes for Young Adults with Disabilities. Most of the Core Team members of the NGA Policy Academy were also members of the BIWG. Each participating state is required to determine and develop the most effective strategies for itself, given its specific challenges and opportunities and will:

- develop clear goals and realistic strategies for making both tangible short-term progress and key first steps toward broader system change;
- design a governance structure that drives implementation of innovative strategies and ensures coordination across all relevant agencies;
- undertake service integration and coordination such as mapping delivery systems, integrating case management, coordinating funds, and implementing effective memoranda of understanding among agencies; and
- develop cross-system outcomes and performance measures for the targeted population, including strategic data collection and analysis techniques in order to determine what strategies are successful and where change is required.[9]

According to the FDDC, "[g]iven the similarities in the goals and focus of the two initiatives and need to maximize the efforts of the mutual serving member agencies and organizations, the NGA Policy Academy was merged with the BIWG initiative to focus the first phase of the BIWG implementation efforts on the transition related recommendations in the Blue Ribbon Task Force final report." The Core Team members, agencies and organizations on the BIWG have developed Implementation Plans for each agency and organization, establishing measures of success, objectives, action steps, responsible parties, timelines, and resources or partners needed for success.

Phase II of the BIWG/NGA initiative will address Inclusive Community Living recommendations, as well as other Phase I recommendations, with a continued focus on strengthening cross-agency collaborations among the domains of housing, transportation, health, assistive technology, education, employment, community integration, and consumer advocacy.

Creation of a Committee or Task Force

Section 20.03 (8), F.S., states that a "Committee" or "task force" refers to an advisory body created without specific statutory enactment for a time not to exceed one year, or created by specific statutory enactment for a time not to exceed three years, and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.

EFFECT OF PROPOSED CHANGES

The bill creates the Interagency Services Committee for Youth and Young Adults with Disabilities within the Agency for Persons with Disabilities. This committee is intended to establish goals to ensure successful transition to employment or further education of youth and young adults with disabilities, as well as to eliminate barriers that impede educational opportunities leading to future employment of these youths.

The bill requires that the committee consist of heads, or their designees, of the following agencies and bureaus or divisions of agencies:

- the Department of Education and, in that department, the Bureau of Exceptional Education and Student Services, the Division of Vocational Rehabilitation, the Division of Blind Services, the Division of Community Colleges, workforce education, and the office of interagency programs;
- the Agency for Persons with Disabilities;
- the Agency for Health Care Administration;

[9] Florida Developmental Disabilities Council, Florida's Transition Plans Comparison Chart (DRAFT), February 9, 2006.

- the Division of Children's Medical Services Network in the Department of Health;
- the Children's Mental Health Program in the Department of Children and Family Services;
- the Department of Juvenile Justice;
- the Department of Corrections;
- the Commission for the Transportation Disadvantaged; and
- the Florida Housing Finance Corporation.

The bill provides that agency representatives must be at least at the bureau chief level. The committee is required to invite representation from the following private and public parties:

- the Able Trust;
- the Business Leadership Network;
- the Florida Advocacy Center;
- the Governor's Americans with Disabilities Act Working Group;
- the Florida Association for Centers for Independent Living;
- an individual with a disability; and
- a parent or guardian of an individual with a disability.

The bill requires members of the committee to designate one of its members as chairperson, and meetings and records of the committee are subject to s. 119.07 and s. 286.011, F.S., the open records and open meetings laws.

The bill requires that the Department of Children and Family Services, the Department of Education, the Department of Health, and the Agency for Persons with Disabilities provide staff support to the committee, and the chairperson is to designate one of the agencies to perform "administrative responsibilities" for the committee.

Committee members are to serve without compensation, but are entitled to reimbursement for travel and per diem, as provided in s. 112.061, F.S. Public officers and employees are to be reimbursed through the budget entity from which their salary is paid. Reimbursement for members who are not public officers or employees shall alternate between the budget entities represented on the committee.

The bill requires that the committee accomplish the following:

- identify the roles and responsibilities of each agency with regard to the committee goals;
- develop collaborative relationships to identify and assist in removing federal and state barriers to achieving goals;
- identify common or comparable performance measures for all agencies that serve youth and young adults with disabilities;
- design a mechanism to annually assess the progress toward the goals of each agency;
- collect and disseminate information on research-based practices of state and local agencies on successful strategies;
- develop strategies to educate public and private employers on the benefit of hiring persons with disabilities;
- develop strategies to encourage each public employer to hire persons with disabilities; and
- recommend a statewide system of accountability which would include incentives for persons with disabilities; service providers, including school districts, technical centers, and community colleges; and businesses and industries providing integrated competitive employment to individuals with disabilities.

The committee must present a progress report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007, must submit a final report on its findings and recommendations by January 1, 2008, and is abolished on June 1, 2008.

The bill has an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Creates the Interagency Services Committee for Youth and Young Adults with Disabilities within the Agency for Persons with Disabilities.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Costs will include travel and per diem expenses for committee members, administrative support costs, and staff time. Travel and per diem costs should be minimal unless the committee conducts meetings outside Tallahassee. Reimbursement for members who are not public officers or employees shall alternate between budget entities represented on the committee.

   Since the committee will select the chairperson who will then designate the agency to provide administrative support, the costs to each of the agencies named cannot be determined.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its March 22, 2006 meeting, the Committee on Elder and Long-Term Care adopted a strike-all amendment to House Bill 1623 with the following changes:

- Provides for the Interagency Services Committee for Youth and Young Adults with Disabilities to be created within the Agency for Persons with Disabilities.
- Revises committee composition, and directs the committee to invite representation from various private and public entities.
- Provides a reimbursement schedule for committee members who are not public officers or employees.
- Refines duties and responsibilities of the committee.
- Requires the committee to submit both a progress report to the Governor, the President of the Senate, and the Speaker of the House by March 1, 2007, and a final report detailing committee findings and recommendations by January 1, 2008.
- Pushes back the date upon which the committee is abolished by one year to June 1, 2008.

A committee substitute was favorably reported, and this analysis is drafted to the committee substitute.

CHAMBER ACTION

The Elder & Long-Term Care Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to youth and young adults with disabilities; creating the Interagency Services Committee for Youth and Young Adults with Disabilities within the Agency for Persons with Disabilities; providing legislative intent; providing for membership, duties, and responsibilities; requiring specified member agencies to provide staff support for the committee; providing for reimbursement of certain expenses; providing that the committee is subject to open records and open meetings requirements; requiring the committee to submit a report to the Governor and Legislature; providing for termination of the committee; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Interagency Services Committee for Youth and Young Adults with Disabilities.--

(1) There is created within the Agency for Persons with Disabilities the Interagency Services Committee for Youth and Young Adults with Disabilities. It is the intent of the Legislature that the committee establish goals to ensure successful transition to employment or further education of youth and young adults with disabilities and to eliminate barriers that impede educational opportunities leading to future employment.

(2)(a) The committee shall consist of heads, or their designees, of the following agencies and bureaus or divisions of agencies: the Department of Education and, in that department, the Bureau of Exceptional Education and Student Services, the Division of Vocational Rehabilitation, the Division of Blind Services, the Division of Community Colleges, the Office of Workforce Education, and the Office of Interagency Programs; the Agency for Persons with Disabilities; the Agency for Health Care Administration; the Division of Children's Medical Services Network in the Department of Health; the Children's Mental Health Program in the Department of Children and Family Services; the Department of Juvenile Justice; the Department of Corrections; the Commission for the Transportation Disadvantaged; and the Florida Housing Finance Corporation. Agency representatives must be at least at the bureau chief level. The committee shall invite representation from the following private and public parties: the Able Trust; the Business Leadership Network; the Advocacy Center for Persons with Disabilities; the Governor's Working Group on the Americans with Disabilities Act; the Florida Association of Centers for

Independent Living; an individual with a disability; and a parent or guardian of an individual with a disability. The members of the committee shall designate one member as the chairperson.

(b) The Department of Children and Family Services, the Department of Education, the Department of Health, and the Agency for Persons with Disabilities shall provide staff support to the committee. The chairperson may designate one of the agencies providing staff support to perform administrative responsibilities for the committee.

(c) Committee members shall serve without compensation but are entitled to reimbursement for expenses incurred in carrying out their duties as provided in s. 112.061, Florida Statutes. Members who are public officers or employees shall be reimbursed by the budget entity through which they are compensated. Reimbursement for members who are not public officers or employees shall alternate between the budget entities represented on the committee.

(d) The meetings and records of the committee are subject to ss. 119.07 and 286.011, Florida Statutes, and s. 24, Art. I of the State Constitution.

(3) The committee shall:

(a) Identify the roles and responsibilities of each agency with regard to the committee goals.

(b) Develop collaborative relationships to identify and assist in removing federal and state barriers to achieving the goals.

(c) Identify common or comparable performance measures for all agencies that serve youth and young adults with disabilities.

(d) Design a mechanism to annually assess the progress toward the goals by each agency.

(e) Collect and disseminate information on the research-based practices and successful strategies of state and local agencies.

(f) Develop strategies to educate public and private employers on the benefit of hiring persons with disabilities.

(g) Develop strategies to encourage public employers to hire persons with disabilities.

(h) Recommend a statewide system of accountability that includes incentives for persons with disabilities; service providers, including school districts, technical centers, and community colleges; and businesses and industries providing integrated competitive employment to individuals with disabilities.

(4) The committee shall submit a report of its progress to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007, and submit a final report on its findings and recommendations by January 1, 2008. The committee is abolished on June 1, 2008.

Section 2. This act shall take effect July 1, 2006.

Amendment to HB 1623 CS by Rep. Bean

Amendment #1 provides that the Agency for Persons with Disabilities may create the Interagency Services Committee for Youth and Young Adults with Disabilities, specifies that the Committee may invite representation from certain private and public parties, and changes the bill's effective date to reflect that the act is effective upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 1623 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Health & Families Council

Representative(s) Bean offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Interagency Services Committee for Youth and Young Adults with Disabilities.--

(1) The Agency for Persons with Disabilities may create the Interagency Services Committee for Youth and Young Adults with Disabilities. It is the intent of the Legislature that the committee develop strategies to ensure successful transition to employment or further education of youth and young adults with disabilities and to eliminate barriers that impede educational opportunities leading to future employment.

(2)(a) The committee shall consist of heads, or their designees, of the following agencies and bureaus or divisions of agencies: the Department of Education and, in that department, the Bureau of Exceptional Education and Student Services, the Division of Vocational Rehabilitation, the Division of Blind Services, the Division of Community Colleges, workforce education, and the office of interagency programs; the Agency

for Persons with Disabilities; the Agency for Health Care Administration; the Division of Children's Medical Services Network in the Department of Health; children's mental health in the Department of Children and Family Services; the Department of Juvenile Justice; the Department of Corrections; the Commission for the Transportation Disadvantaged; and the Florida Housing Finance Corporation. Agency representatives must be at least at the bureau chief level. The committee may invite representation from the following private and public parties: the Able Trust; the Business Leadership Network; the Florida Advocacy Center; the Governor's Americans with Disabilities Act Working Group; the Florida Association for Centers for Independent Living; an individual with a disability; and a parent or guardian of an individual with a disability. The members of the committee shall designate one of its members as chairperson.

(b) The Department of Children and Family Services, the Department of Education, the Department of Health, and the Agency for Persons with Disabilities shall provide staff support to the committee. Meetings and records of the committee are subject to ss. 119.07 and 286.011, Florida Statutes. The chairperson may designate one of the agencies providing staff support to perform administrative responsibilities for the committee.

(c) Committee members shall serve without compensation but are entitled to reimbursement for expenses incurred in carrying out their duties as provided in s. 112.061, Florida Statutes. Members who are public officers or employees shall be reimbursed through the budget entity through which they are compensated. Reimbursement for members who are not public officers or

employees shall alternate between the budget entities represented on the committee.

(3) The committee shall:

(a) Identify the roles and responsibilities of each agency with regard to the committee goals.

(b) Develop collaborative relationships to identify and assist in removing federal and state barriers to achieving the goals.

(c) Identify common or comparable performance measures for all agencies that serve youth and young adults with disabilities.

(d) Design a mechanism to annually assess the progress toward the goals by each agency.

(e) Collect and disseminate information on research-based practices of state and local agencies on successful strategies.

(f) Develop strategies to educate public and private employers on the benefit of hiring persons with disabilities.

(g) Develop strategies to encourage and provide incentives for public and private employers to hire persons with disabilities.

(h) Recommend a statewide system of accountability which would include incentives for persons with disabilities; service providers, including school districts, technical centers, and community colleges; and businesses and industries providing integrated competitive employment to individuals with disabilities.

(4) The committee shall present a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007, and a final report on its findings and recommendations by January 1, 2008. The committee is abolished on June 1, 2008.

Section 2. This act shall take effect upon becoming a law.

========== T I T L E A M E N D M E N T ==========

Remove the entire title and insert:

A bill to be entitled

An act relating to youth and young adults with disabilities; creating the Interagency Services Committee for Youth and Young Adults with Disabilities; providing legislative intent; providing that the committee be staffed by member agencies of the committee; providing for the membership of the committee; providing duties and responsibilities for the committee; requiring the committee to submit a report to the Governor and the Legislature; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7173 (PCB FFF 06-01) CS Welfare of Children
SPONSOR(S): Future of Florida's Families Committee and Rep. Galvano
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 2470, HB 1607, SB 1798

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Future of Florida's Families Committee	7 Y, 0 N	Davis/Preston/Halperin	Collins
1) Fiscal Council	21 Y, 0 N, w/CS	Ekholm	Kelly
2) Health & Families Council		Davis/Preston/Halperin	Moore
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill establishes a centralized office to examine, oversee, and implement abuse prevention services by creating the Office of Child Abuse Prevention within the Executive Office of the Governor.

Creating an Office of Child Abuse Prevention is viewed as untangling the fragmented web of services to bring a more efficient, streamlined and accessible array of services to the families of the State of Florida. That is, layers should be removed, communication networks should be developed, prevention management should increase, and accountability should be created. A centralized prevention office will lay the foundation for success in accessing prevention services for years to come.

The bill also addresses the welfare of young adults aging out of the foster care system by expanding the eligibility pool, requiring the development of a plan for each community-based care (CBC) service area, providing for the direct deposit of funds, authorizing CBCs to purchase housing and other services, and providing for the expansion of Kidcare coverage for eligible young adults until age 20.

The bill makes public school employees subject to the reporting requirements of chapter 39, F.S., for purposes of making reports of alleged abuse to the central abuse hotline.

Because of an exemption from regulation by both the Department of Children and Family Services and the Department of Education, the bill requires boarding schools to be accredited.

Finally, the ability of Statewide and Local Advocacy Councils ("SAC") to monitor, investigate, and resolve claims of abuse and neglect is strengthened. The intent of the Legislature is restated to have citizen volunteers as members of the SAC "to discover, monitor, investigate, and determine the presence of conditions or individuals that constitute a threat to the rights, health, safety, or welfare of persons who receive services from state agencies."

The estimate of fiscal impact to the state of the provisions of the bill is significant—$18,427,790 in recurring and $165,155 in nonrecurring general revenue funds; however, the bill has been amended to remove the appropriation and to specify that the bill will only take effect July 1, 2006 if a specific appropriation is included in the General Appropriations Act for Fiscal Year 2006-2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill creates the Office of Child Abuse Prevention (Office) for the purpose of establishing a comprehensive statewide approach for the prevention of child abuse, abandonment, and neglect. The bill also expands Medicaid eligibility for certain young adults until age 20.

Safeguard Individual Liberty—If the Statewide Advocacy Council were designated as a health oversight agency, it would be entitled to obtain confidential client records without client consent.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION:

In 1982, the Legislature required the Department of Health and Rehabilitative Services along with other state and local agencies to develop a state plan on the prevention of child abuse and neglect (chapter 82-62, Laws of Florida). The act required the plan to be submitted to the Legislature and Governor by January 1, 1983 and to be updated periodically. It was reported in 1982 that, "The impact that abuse and neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse and neglect shall be a priority of this state." Twenty-four years later, the Legislature is still seeking to address and identify ways to reduce incidence of abuse and neglect of children in Florida.

In 2002, Florida was among only three other states and the District of Columbia in having the highest national child maltreatment rate.[1] During the same year, 142,547 investigations of abuse or neglect, involving 254,856 children, were completed. Approximately one-half of the investigations were substantiated or indicated the presence of abuse or neglect. In FY 2003-04, there were reportedly 32.3 victims of maltreatment per 1,000 children in Florida. At that time, the re-abuse and re-neglect rate in Florida was 9.67%, which is higher than state and federal standards of 7% and 6.1%, respectively. These rates are based on maltreatment recurrence within six (6) months.

There were over 130,000 confirmed victims of child abuse and neglect in Florida in 2003. The actual incidence of child abuse and neglect is estimated to be 3 times that number.[2] Child deaths are the most tragic consequences of abuse and neglect. Child neglect deaths are more frequent than abuse deaths as 52% of child deaths that occur are through neglect.

A Florida child is abused or neglected every 4 minutes.[3] Ten thousand Florida children are abused or neglected per month. During 2004, according to the Florida Child Abuse Death Review Team, at least 111 Florida children died from abuse or neglect at the hands of their parents or caretakers; that is a rate of about two children dying each week. They were smothered, slammed down on asphalt, beaten, shot or they drowned while unsupervised.

The cost of child maltreatment to society is tremendous. National estimates of direct and indirect impacts range from $67 to $94 billion each year, and many argue that these estimates are likely to

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[1] U.S. Department of Health and Human Services, 2004. Florida rate was 31.5 per 1,000 children.

[2] "Child Welfare Annual Statistics Data Tables Fiscal Year 2004-2005." http://www.fiu.edu/~cat/fl_victims.htm. Author, Dr. Maureen Kenny, is currently an Associate Professor at Florida International University's College of Education.

[3] "Child Welfare Annual Statistics Data Tables Fiscal Year 2004-2005." http://www.fiu.edu/~cat/fl_victims.htm. Author, Dr. Maureen Kenny, is currently an Associate Professor at Florida International University's College of Education.

understate the true costs due to the difficulty in capturing the full range of indirect costs such as cash and food assistance.[4] Prevention can save lives and precious resources. Despite the potential long-term benefit of preventing child abuse and neglect, only a small percentage of all resources specifically earmarked for child maltreatment in the State of Florida are actually devoted to prevention.[5]

In a study of primary prevention efforts in Florida, researchers found federal and state sources funded $1,360 per year, per child under age five, on primary prevention programs and concluded that Florida's investments in primary prevention programs for young children were at levels insufficient to significantly reduce expenditures on deep-end services. The costs of foregoing prevention include lost productivity, wasted human potential, and reduced quality of life associated with escalation of preventable conditions to chronic, debilitating, and destructive states.[6] The challenges of funding restraints and the requirement to address the immediate, critical needs of maltreated children limit the Legislature's ability to focus on primary prevention oriented efforts. Prevention works best when there are strong connections between state and local government, prevention providers, and community organizations. In order to ensure the well being and success of Florida's children and families, prevention must become a priority for the state's citizens and leaders.

Many programs for children and families continue to focus on "fixing" problems rather than preventing them. Quick fixes are preferred, often for budgetary reasons, and prevention efforts typically require more extensive and comprehensive investments.[7]

There are some notable exceptions to this trend. The Florida Legislature created Healthy Families Florida (HFF) in July 1998 in response to the increasing number of child deaths due to child maltreatment and the increasing rates of maltreatment. Healthy Families Florida, Inc., is a nationally credentialed community-based, voluntary home visiting program designed to enable families to raise healthy, safe and nurtured children. Healthy Families Florida participants had 20 percent less child maltreatment than all families in their target service areas, showing that children in families who completed or had long-term, intensive HFF intervention experienced significantly less child maltreatment than did comparison groups with little or no service.[8]

In 1998, the Legislature appropriated $10 million to HFF to establish the state and local operating infrastructures and to fund 24 community-based programs to begin operations in targeted areas within 26 counties. In FY 1999-2000, the Legislature more than doubled the base funding to $22.2 million, which funded 36 projects serving 43 counties. In FY 2003-2004, the base funding was increased to $28.3 million to expand two projects and create one new project serving four new counties for a total of 38 projects serving parts or all of 53 of Florida's 67 counties. By FY 2003-2004, communities were contributing $9.7 million per year in local in-kind or cash contributions. The 2005-06 General Appropriations Act includes $28.4 million for the HFF program and provides a total funding of $44 million for "Child Abuse Prevention and Intervention" within the Department of Children and Families -- that represents less than 2% of the department's budget.

Healthy Families Florida is one example of a program which has had a positive impact on preventing child maltreatment for the population it serves. There are hundreds of prevention programs statewide funded with local, state, and/or federal dollars; however, due to a lack of data, it is unknown how effective many of these programs are in reducing incidence of abuse, neglect, abandonment, and death of children.

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[4] Fromm, S. (2001). *Total estimated cost of child abuse and neglect in the United States.* Chicago, IL: Prevent Child Abuse America.
[5] Thomas, D., Leicht, C., Hughes, C., Madigan, A., & Dowell, K. (2003). *Emerging practices in the prevention of child abuse and neglect.* www.dhhs.gov. Washington, D.C.: U.S. Department of Health and Human Services.
[6] Feaver, E. & Strickland, L. (2003). The Lawton Chiles Foundation Whole Child Project prevention policy paper. Tallahassee, FL: The Chiles Center.
[7] Lind, C. (2004). *Developing and supporting a continuum of child welfare services,* Welfare Information Network, 8 (6). www.financeprojectinfo.org/win/. Washington, D.C.: The Finance Project.
[8] Five-year Evaluation Results, Healthy Families Florida, March 2005. Sponsored by the Ounce of Prevention Fund of Florida and the State of Florida, Department of Children & Families.

On July 15, 2005, a letter was sent to all members of the Florida House of Representatives requesting the name(s) and contact information of prevention programs within their districts that have been successful in reducing the incidence of abuse or have resulted in children and families not entering the child welfare system. Over 30 legislators responded identifying approximately 75 programs within their districts that were successful. Still, it is reported by the Department of Children and Families that these programs have produced small improvements in the level of child abuse, neglect, and abandonment, mainly because "there remain far too many children and families at risk of and suffering from maltreatment."

Recognizing the importance of reducing maltreatment and the conditions that are likely to promote abuse, the Legislature mandated that the Department of Children and Families work with an interdisciplinary task force to develop a statewide plan for child abuse prevention.[9] This statewide plan was released in June 2005. Membership of the Florida Interprogram Task Force included the following representatives:

- Agency for Persons with Disabilities;
- Agency for Workforce Innovation;
- Community Alliances;
- Community-based Care;
- Department of Children and Families;
- Department of Education;
- Department of Health;
- Department of Juvenile Justice;
- Florida Department of Law Enforcement;
- Miccosukee Tribe;
- Prevent Child Abuse Florida; and
- Parents.

In response to these findings, the Future of Florida's Families Committee was granted authority to conduct an Interim Project to shed light on many of the problems being faced throughout the state in dealing with child maltreatment. While there are varying schools of thought on the origins of child maltreatment, most theories of child maltreatment recognize that the root causes can be organized into a framework of four principal systems: (1) the child; (2) the family; (3) the community; and (4) the society. The interim project examined many of the current prevention strategies that are operating throughout the state with the intent of outlining the prevention methods being used, the populations being served, and the outcomes and effectiveness of the current system.

Having the benefit of the background research, findings and recommendations of the Task Force, and in conjunction with an approved Interim Project, Speaker Allan Bense granted permission for the members of the Future of Florida's Families Committee to conduct a series of public hearings throughout the state with the primary objectives of:

- Bringing awareness to the impact on Florida's families of abuse, neglect, molestation, abandonment, and death of children;
- Enabling the members of the committee to dialogue with at-risk families and providers of prevention and child protective services; and
- Aiding in the development of legislation to reduce the incidence of abuse, neglect, and abandonment of children in Florida.

[9] "Florida's State Plan for the Prevention of Child Abuse, Abandonment, and Neglect: July 2005 through June 2010." Developed by The Florida Interprogram Task Force, June 2005.

With the assistance of the various state agencies involved in abuse prevention efforts and state and local providers of services, the public hearings were planned and held in September and October 2005 in Jacksonville, Tampa, Miami, and West Palm Beach.

At the conclusion of the hearings, stakeholders were asked to provide to the members of the Future of Florida's Families Committee a broad list of Policy Options that could be discussed and evaluated for possible inclusion in a proposed committee bill. Over 26 Policy Options were received. The options were reviewed and ranked by the members of the committee and on January 11, 2006, there was a consensus to incorporate the following recommendations into a Proposed Committee Bill:

- Establish an Office of Child Abuse Prevention within the Executive Office of the Governor.
- Require that some portion of child abuse prevention funding be dedicated to the controlled longitudinal evaluation of program effectiveness.
- Continue to support, strengthen, and expand the Healthy Families Florida Program statewide so that it is available to all families that are at risk of child abuse and neglect and other poor childhood outcomes.
- Identify the Florida Statewide Advocacy Council (FSAC) and the Florida Local Advocacy Councils (FLACs) as "Medicaid Oversight" regarding the release of recipient information in abuse reports.
- Require each school district to establish written procedures for the immediate reporting of suspected or known child abuse by an individual who is employed by or otherwise contracted by a public school.
- Address the needs of young adults in foster care and young adults who age out of foster care to help prevent the occurrence of abuse and neglect of their children.

The Office of Child Abuse Prevention

The fundamental foundation for the delivery of services by the Department of Children and Families (DCF) and the other involved state agencies regarding Abuse Prevention is fragmented. The result of this fragmentation and inefficiency has created a tangled maze of services that is not only un-navigable by the providers but also the recipients of services. This maze has created inefficiency and waste as well as confusion among communities as to what services are being offered and how to access those services.

One of the findings of the committee was that long-term Abuse Prevention can save the state millions if not billions of dollars, but it is not feasible to continue to pour more money into a system in which the foundation for success is flawed. Addressing "prevention" is an issue that must have long-range goals.

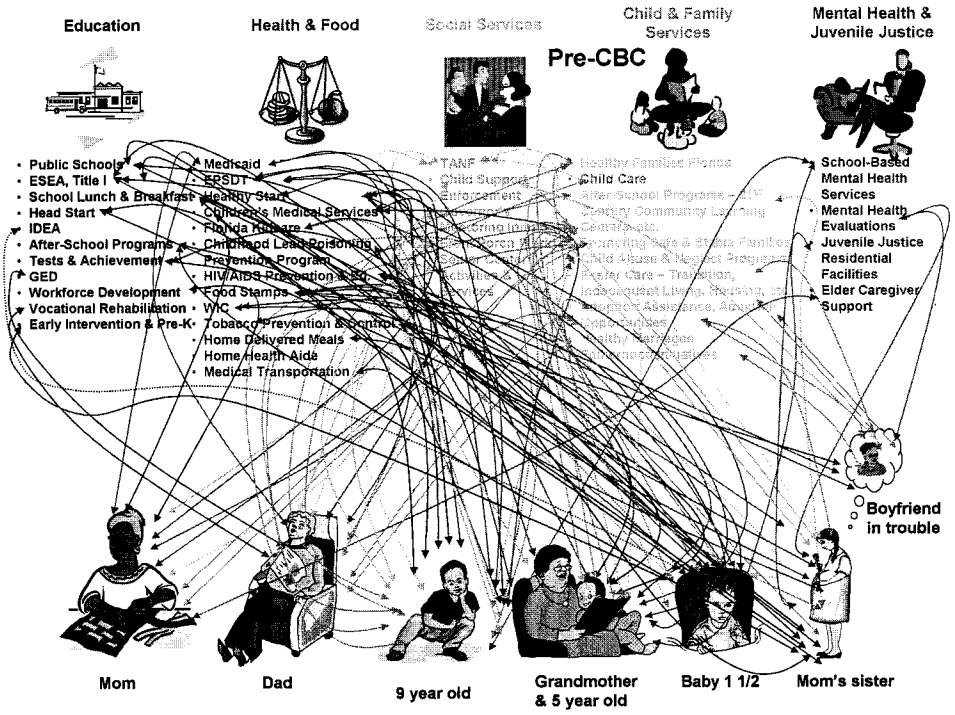
Child abuse, neglect, and abandonment cost the state millions of dollars each year, yet a centralized office to examine, oversee, and implement prevention services of abuse has yet to be put into place. Without an organized effort, there is a concern that prevention will continue to fall through the cracks.

The current system is a tangled maze of services (See diagram which follows):

- Programs that focus on primary and secondary prevention of child abuse are offered by the Department of Children and Families (DCF) and at least six other state agencies, including the: Department of Education, Department of Health, Department of Juvenile Justice, the Agency for Persons with Disabilities, the Agency for Workforce Innovation, and the Florida Department of Law Enforcement, and thousands of community organizations. This results in a tangled maze of services that providers and people trying to access the services must attempt to navigate.

- This uncoordinated system makes it unclear what services are being offered, how to access these services, duplication of services, and results in inefficiency and waste. An Office of Child Abuse Prevention would coordinate statewide prevention efforts and keep children out of the child welfare system.
- Coordination of services would improve delivery of child abuse prevention programs, decrease barriers between community providers and the families needing services, and connect private providers into a system that would result in a more efficient use of taxpayer monies.

Tangled Maze of Services



Future of Florida's Families Committee, Prevention of Child Abuse and Neglect Public Hearing, Miami, Florida Commission on Marriage and Family Support Initiatives, 3 October 2005

Florida's population is growing significantly, which will increase the number of children and families in the state. The American Community Survey (ACS) has been developed by the Census Bureau to provide population estimates annually. The percent change in growth of children in the United States is a 1.51% increase over the last five years. However, the percent change in growth in children in Florida over the last five years is a 9.87% increase. Therefore, over the last five years the percent increase of children in Florida is over six times the increase in the U.S. Furthermore, the growth in children in Florida accounts for almost one third of the increased number of children in the U.S. Therefore, simply by an increase in numbers, the volume of potential cases of children and families that may enter the child welfare system should increase. This means that there will be more children and families potentially at risk or involved in child abuse and neglect than ever before in the State of Florida.

The Rationale for Prevention

- No disease or social problem has ever been brought under control by providing after-the-fact treatment to the victims of the disease or problem.

- Preventive, proactive, before-the-fact interventions have, historically, been the only effective way to control or eliminate important diseases. Public health prevention programs to control smallpox and polio are prime examples.
- Prevention interventions are not only very effective they are remarkably cost effective – often costing only a small fraction of the expense of the treatment. Hence the phrase, "an ounce of prevention is worth a pound of cure."

Maximizing prevention opportunities may mean making difficult decisions about how organizations utilize their funding. Prevention services reduce costs in the long run and can provide families with services in a less stigmatized manner. The integration of the full range of family support services requires a re-conceptualization of the frame of mind as to which "prevention is applied." According to the Centers for Disease Control, the cost of not preventing child abuse and neglect in 2001 equaled $94 billion a year nationally. These direct costs include the utilization of the health care system, the mental health system, the child welfare system, the law enforcement, and the judicial system -- while the indirect costs include the provision of special education, mental health and health care, juvenile delinquency, lost productivity to society, and adult criminality. Therefore, prevention should be looked at as a sound investment.

What other states are doing

Oklahoma:

In 1984, the Office of Child Abuse Prevention was created in the Oklahoma Child Abuse Prevention Act. Prior to 1984, the focus of child abuse and neglect was an "after the fact" intervention, preventing the recurrence of child abuse and neglect. The act declared that the prevention of child abuse and neglect was a priority in Oklahoma. In accordance with the Act, the Office of Child Abuse Prevention was created and placed within the Oklahoma State Department of Health to emphasize the focus of prevention. The mission of the office is to promote the health and safety of children and families by reducing family violence and child abuse, including neglect, through public health education, multidisciplinary training of professionals, and funding of community-based family resource and support programs.

California:

In 1977, the Office of Child Abuse Prevention was created in California. It has been reported by the office that having a coordinated streamlined approach to prevention has worked. The office in California has a very similar mission to the Oklahoma Office.

Early History of Independent Living

When they become 18, many young adults, a great number of whom have grown up in foster care, lose the support they received while in care. Without the support of a family, they are on their own to obtain further education and preparation for employment, as well as health care, mental health care, and housing. These young adults encounter tremendous obstacles that may put their emotional, economic, and personal security at risk.

Aftercare is defined as the period of time following discharge from foster care. It is that time when young individuals who have been preparing for self-sufficiency while in care must begin to operationalize the skills they have been working to master. Aftercare services are typically defined as a system of services and resources designed for those youth who are 16-21 years of age, in post placement who are living in an independent living arrangement. Historically, aftercare services have been difficult and challenging to provide, many times because they have

been "relegated to an out-of-sight, out-of-mind status." It is now known that aftercare services should begin while the child is still in care.[10]

Federal funds for independent living initiatives were first made available in the United States under the Consolidated Omnibus Budget Reconciliation Act of 1985. This act authorized funds to states to establish independent living initiatives to assist eligible youth 16 years of age and older to make the transition from foster care to independent living.[11] A total of 45 million dollars was authorized for the program across the nation, with state shares based on the number of children/youth in foster care. The U.S. Department of Health and Human Services, Administration for Children, Youth and Families, issued the first set of program instructions to the states in early 1987. Each state was able to determine the nature and scope of their Independent Living Program, but guidelines from the federal government provided recommended specific program components. The recommended list included services such as GED or vocational training, daily living skills, job readiness and employability skills, and assistance obtaining higher education.

John H. Chafee Foster Care Independence Program

In a further effort to increase services and strengthen state programs for teens in foster care, Congress passed the Foster Care Independence Act of 1999, which was signed into law as the John H. Chafee Foster Care Independence Program. The Chafee Program made substantial changes in federal efforts targeted toward youth and young adults up to age 21 in the foster care component of the child welfare system. The law significantly improved the ability of states to achieve the national goals of safety, permanence and well-being for youth and young adults in the child welfare system.[12] The new federal law doubled the appropriations nationally and increased Florida's allocation substantially.

The Chafee Program legislation included provisions that:

- Required states to make services available to youth up to 21 years of age;
- Required states to serve youth younger than 16 years of age for the first time;
- Permitted states to use up to 30% of their allocation for room and board costs and services for youth ages 18-21 who leave foster care on or after 18 years of age;
- Allowed states to provide Medicaid insurance to youth 18-21 years of age who leave foster care;
- Increased the limit on youth savings accounts from $1,000 to $10,000 so that youth in foster care can save and still be eligible for Title IV-E foster care benefits;
- Required states to develop outcome measures to assess state performance;
- Required states to use Title IV-E funds to train adoptive/foster care parents, workers in group homes, and case managers to help them address issues confronting adolescents preparing for independent living; and
- Authorized additional funds for adoption incentive payments to states that increased the number of children adopted from foster care.

Education and Training Vouchers

In 2002, Title IV-E of the Social Security Act, related to the Foster Care Independent Living program, was again amended to provide for vouchers for education and training, including

[10] See The John H. Chafee Foster Care Independence Program, Aftercare Services, The University of Oklahoma, National Resource Center for Youth Development, 2003.
[11] The Independent Living Program was initially authorized by Public Law 99-272, through the addition of section 477 to Title IV-E of the Social Security Act.
[12] See P.L. 106-169.

postsecondary training, and training for youths aging out of foster care.[13] Conditions required for a state educational and training voucher program under this legislation include, but are not limited to, the following:

- Vouchers may be available to youths otherwise eligible for services under the state independent living program;
- Youths adopted from foster care after attaining age 16 may be considered to be youths otherwise eligible for services under the state program;
- States may allow youths participating in the voucher program on the date they attain 21 years of age to remain eligible until they attain 23 years of age, as long as they are enrolled in a post secondary education or training program and are making satisfactory progress toward completion of that program;
- Vouchers provided for an individual may be available for the cost of attendance at an institution of higher education[14] and shall not exceed the lesser of $5,000 per year or the total cost of attendance; and
- The amount of a voucher under this section shall be disregarded for the purposes of determining the recipient's eligibility for, or the amount of, any other federal or federally supported assistance, with some exceptions.

Florida Law

With the passage of the federal law and increased available funding, the 2002 Legislature established a new framework for Florida's independent living transition services to be provided to these older youth. Specifically provided for was a continuum of independent living transition services to enable older children who are 13 to 18 years of age and in foster care and young adults who are 18 to 23 years of age who were formerly in foster care to develop the skills necessary for successful transition to adulthood and self-sufficiency. Service categories established include the following:

- Pre-independent living services which include life skills training, educational field trips and conferences for children in foster care who are 13 to 15 years of age;
- Life skills services which include independent living skills training, educational support, employment training and counseling for children in foster care who are 15 to 18 years of age; and
- Subsidized independent living services which are services provided in living arrangement that allow a child who is 16 to 18 years of age to live independently of adult supervision under certain specified circumstances.

A category of services for young adults formerly in foster care was also created to provide services, based on the availability of funds, which included aftercare support services, the Road to Independence Scholarship Program, and transitional support services. In addition, young adults who are awarded a Road to Independence Scholarship are exempt from the payment of tuition and fees for state universities, community colleges, and certain postsecondary career and technical programs and retain their Medicaid eligibility.[15]

The Department of Children and Family Services was directed to form an Independent Living Services Integration Workgroup for the purpose of assessing the barriers to the coordination of services and supporting the youths' transition to independent living with a report to be submitted to the Legislature by December 31, 2002.[16] In 2003, the Independent Living Services

[13] See P.L. 107-133.
[14] See definition in section 102 of the Higher Education Act of 1965.
[15] See s. 409.1451, Florida Statutes.
[16] See Chapter 2002-19, Laws of Florida.

Integration Workgroup was replaced with the Independent Living Services Workgroup.[17] The representation on the workgroup remained the same with representatives from state agencies involved in service delivery to older foster children as well as representatives from the State Youth Advisory Board and foster parents. The charge to the workgroup was expanded to include assessing the implementation of the independent living transition services system, keeping the Department of Children and Families informed of the problems surfacing and successes experienced with the independent living transition services, and advising the department on strategies that would improve the ability of the system to meet its goals.

The experiences of the independent living transition services program since its inception have pointed to the importance of effective and early service delivery to meet the goals of building the youths' ability to transition to independence and self-sufficiency. However, questions continue to be raised as to whether there is adequate attention being paid to preparing youth for adulthood and independent living, whether funding is sufficient to support the increasing requests for services, whether services should be more supportive of young adults not pursuing postsecondary education, and whether there is sufficient guidance and oversight being provided to the community-based care agencies that will ensure the effectiveness of the services and ensure that the goals of the program are met. As a result of continuing concerns, the Auditor General was directed to conduct an operational audit of the program and the Office of Program Policy Analysis and Government Accountability (OPPAGA) was directed to develop minimum standards for the program.[18] In addition, OPPAGA conducted another evaluation of the program in 2005.[19]

To date, it remains unclear whether any of the deficiencies identified in the reports have been corrected or whether the recommended minimum standards have been implemented.

Mandatory Reporting Public School Personnel

Florida law requires any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or **other person responsible for the child's welfare** to report such knowledge or suspicion to the Department of Children and Family Services' hotline as prescribed by law.[20]

Florida law also provides that reporters in the following occupation categories are required to provide their names to the hotline staff when reporting:

- Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons.
- Health or mental health professional other than one listed above.
- Practitioner who relies solely on spiritual means for healing.
- School teacher or other school official or personnel.
- Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker.
- Law enforcement officer.
- Judge.

[17] See Chapter 2003-146, Laws of Florida.
[18] See Chapter 2004-362, Laws of Florida. Auditor General Report No. 2005-119 and OPPAGA Report No. 04-78, *Independent Living Minimum Standards Recommended for Children in Foster Care*, November 2004.
[19] OPPAGA Report No. 05-61, *Improvements in Independent Living Services Will Better Assist State's Struggling Youth,* December 2005.
[20] See s. 39.201, F.S.

Other Person Responsible for a Child's Welfare

The term "other person responsible for a child's welfare" is defined as:

> "...the child's legal guardian, legal custodian, or foster parent; **an employee of a private school**, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include law enforcement officers, or employees of municipal or county detention facilities or the Department of Corrections, while acting in an official capacity."[21]

Failure to Report

Florida law provides that a person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.[22]

Public School Personnel

Public school personnel are not currently included in the definition of "other person responsible for a child's welfare." They were removed from the definition in 1993.[23] By not being included in this definition or otherwise being referenced in s. 39.201, F.S., persons knowing or having reasonable cause to suspect that a child is being abused by a public school employee are not required to make a report to the central abuse hotline. Likewise, persons who have such knowledge or suspicion that abuse by a public school employee has occurred and does not report it, cannot be prosecuted for failure to report under s. 39.205, F.S. (*State of Florida vs. Meyers*, 9th Judicial Circuit, 2004, Case No. 03-MM-001038).

Boarding Schools

A "boarding school" is defined as:

> "...a school which is registered with the Department of Education as a school. Its program must follow established school schedules, with holiday breaks and summer recesses in accordance with other public and private school programs. The children in residence must customarily return to their family homes or legal guardians during school breaks and must not be in residence year-round, except that this provision does not apply to foreign students. The parents of these children retain custody and planning and financial responsibility."[24]

A small military school in Fort Lauderdale, Florida closed during the summer of 2005 as a result of allegations that students were being abused. During the course of the investigation by Broward County law enforcement, it was determined that boarding schools are exempt from regulation by both the Department of Children and Family Services and the Department of Education:

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[21] See s. 39.01(47), F.S.
[22] See s. 39.205, F.S.
[23] See Chapter 93-25, Laws of Florida.
[24] See s. 409.175, F.S.

- A person, family foster home, or residential child-caring agency shall not receive a child for continuing full-time care or custody unless such person, home, or agency has first procured a license from the department to provide such care.

This license requirement does not apply to boarding schools, recreation and summer camps, nursing homes, hospitals, or to persons who care for children of friends or neighbors in their homes for periods not to exceed 90 days or to persons who have received a child for adoption from a licensed child-placing agency.[25]

- It is the intent of the Legislature not to regulate, control, approve, or accredit private educational institutions, but to create a database where current information may be obtained relative to the educational institutions in this state coming within the provisions of this section as a service to the public, to governmental agencies, and to other interested parties. It is not the intent of the Legislature to regulate, control, or monitor, expressly or implicitly, churches, their ministries, or religious instruction, freedoms, or rites. It is the intent of the Legislature that the annual submission of the database survey by a school shall not be used by that school to imply approval or accreditation by the Department of Education.[26]

Statewide and Local Advocacy Councils

The Statewide Advocacy Council (SAC) and Local Advocacy Councils (LAC) (collectively, the "SAC") was created to serve as a volunteer network of councils that undertake to discover, monitor, and investigate the presence of conditions that constitute a threat to the rights, health, safety or welfare of persons who receive services from state agencies. The SAC is entitled to serve as an independent, third-party mechanism for protecting the constitutional and human rights of "clients" by entering into Interagency Agreements with agencies providing "client services" as defined under s. 402.164(2)(c), F.S. "Clients" are strictly limited under the statute to certain individuals receiving particular services at four state agencies: the Agency for Persons with Disabilities (APD), the Department of Children and Families (DCF), the Agency for Health Care Administration (AHCA), and the Department of Elder Affairs (DOEA).

Interagency Agreements[27] are written to address the coordination of efforts and identify the roles and responsibilities of the SAC and each agency in fulfillment of their responsibilities, including access to records. For these agencies, the SAC may:

(1) Monitor by site visit and through access to records the delivery and use of services, programs or facilities, in order to prevent the abuse or deprivation of rights;
(2) Receive, investigate, and resolve reports of abuse or deprivation referred to the council; and
(3) Review existing, new or revised programs of agencies and make recommendations based on how "clients" are affected.

Access to Records

With a few exceptions described below, s. 402.165(2), F.S., provides that the SAC may have access to all client records, files, and reports from any person, service, or facility that is operated, funded, or contracted by the agencies above. The SAC is further permitted to records that are considered "material to investigation" from agencies that do not provide "client services"

[25] See s. 409.175, F.S.
[26] See s. 1002.42(2)(h), F.S.
[27] Interagency Agreements are described in s. 402.165(7)(j), F.S.

to "clients;"[28] however, the SAC is not expressly entitled to form interagency agreements or receive records from these agencies.

The SAC's access to "client" records at "client services" agencies has been limited by the Legislature where:[29]

(1) Investigation or monitoring would impede or obstruct matters under investigation by law enforcement agencies or judicial authorities;
(2) There are federal laws and regulations that supersede state laws; and
(3) The records belong to a private licensed practitioner who is providing services outside the state agency or facility, and whose client is competent and refuses disclosure.

Federal Regulations that Limit SAC Access to Records

Section 402.165(8)(a)2., F.S., limits the SAC's access to information where such information is protected by superseding federal law. The Social Security Act (SSA) and the Health Insurance Portability and Accountability Act (HIPAA) are examples of two such federal laws. As federal Medicaid law, the SSA makes confidential certain information such as names and addresses, medical services provided, social and economic conditions, agency evaluation of personal information, medical data, income eligibility information, etc., as provided in 42 C.F.R. 431.305. To obtain Medicaid recipient information:

(1) Disclosure must be directly related to the administration of the state Medicaid plan.
   - Example: The SAC may request to see medical records of a foster child who receives Medicaid to determine if the child is actually receiving the medical services covered under the plan.
(2) The recipient must give permission for the disclosure.
(3) The disclosing entity must restrict access to persons who are subject to comparable standards of confidentiality.
   - This presents some difficulty in some cases where the SAC requests access to mass data records for volunteer members to handle on unsecured home computers.

HIPAA further prohibits disclosure of a patient's personal health information ("PHI") without the consent of the patient. There are several exceptions to these requirements. One exception is disclosure of PHI to a "health oversight agency" (HOA) performing "health oversight activities." A HOA is defined as:[30]

> "...an agency or authority of the United States, a State, a territory, a political subdivision of a State or such public agency, including employees or agents of such public agency or its contracts or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant."

[28] Agencies that do not provide "client services" to "clients" include the Department of Education (DOE), the Department of Health (DOH), the Department of Corrections (DOC), and the Department of Juvenile Justice (DJJ).
[29] Sections 402.165(8)(a)2. and 402.166(8)(a), F.S.
[30] 45 C.F.R. s. 164.051.

Designation of "Health Oversight Agency"

Currently, the SAC is not a health oversight agency. According to an analysis by the Governor's General Counsel's Office, the SAC is not authorized by law to oversee Florida's health care system, or to oversee government programs in which health information is necessary to determine eligibility. The common usage of the term "oversee" and the types of activities it encompasses in HIPAA imply some authority to manage or supervise. The SAC's role is to "monitor" the delivery and use of services, programs or facilities; to make recommendations; and to receive and resolve reports of abuse. In other words, the SAC is designated to advocate, not oversee.

EFFECT OF PROPOSED CHANGES:

The Office of Child Abuse Prevention

As a result of the interim project, the public hearings, and research conducted, the Future of Florida's Families Committee recommended that an Office of Child Abuse Prevention (office) be created for the purpose of establishing a comprehensive statewide approach for the prevention of child abuse, abandonment, and neglect. The Office of Child Abuse prevention is created within the Executive Office of the Governor, and the Governor shall appoint the director who shall be subject to confirmation by the Senate.

Before the state can fiscally increase new prevention efforts, a centralized statewide integrated service network needs to be created – similar to the Office of Drug Control housed in the Executive Office of the Governor. The purpose of this office would be to continue to address the prevention needs of this state but also to centralize a community network throughout the state to increase communication, to more efficiently deliver services, while providing easy access to the citizens of the State of Florida to those services. By bringing together all the programs in the state it should create an environment conducive to a more "Prevention Focused" state effort to better serve the children and families of Florida.

Creating an Office of Child Abuse Prevention is viewed as untangling the fragmented web of services to bring a more efficient, streamlined and accessible array of services to the families of the State of Florida. That is, layers should be removed, communication networks should be developed, prevention management should increase, and accountability should be created. A centralized prevention office will lay the foundation for success in accessing prevention services for years to come.

The Director: The director's responsibilities include the following:

- Formulate and recommend rules pertaining to the implementation of child abuse prevention efforts.
- Act as the Governor's liaison with state agencies, other state governments, and the public and private sectors on matters that relate to child abuse prevention.
- Work to secure funding.
- Develop a strategic program and funding initiative.
- Advise the Governor on child abuse trends in the state.
- Develop child abuse prevention public awareness campaigns.

The Office: The office is authorized and directed to:

- Oversee the preparation and the implementation of a state plan and revise and update the plan as necessary.

- Conduct or provide for continuing professional education and training in the prevention of child abuse and neglect.
- Work to secure funding.
- Make recommendations pertaining to agreements or contracts towards child abuse and neglect for the establishment of programs and services, training programs, and multidisciplinary and discipline-specific training programs for professionals.
- Monitor, evaluate, and review the development and quality of local and statewide services and programs for the prevention of child abuse and neglect and distribute and publish an annual report of its findings before January 1 of each year.

The office shall develop a state plan for the prevention of child abuse, abandonment, and neglect of children. Appropriate state and local agencies and organizations shall be provided an opportunity to participate in the development of the state plan.

The office shall establish a Child Abuse Prevention Advisory Council, which will be composed of representatives from each appropriate state agency and appropriate local agencies and organizations. The Advisory Council will replace the Interprogram Task Force that is in current law and shall serve as the research arm of the office. Some of its responsibilities include:

- Assisting in developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse.
- Assisting in providing a basic format to be utilized by districts in the preparation of local plans of action.
- Assisting in examining the local plans.
- Assisting in the preparing the state plan.
- At least biennially, the office shall review the state plan and make necessary revisions based on changing needs and program evaluation results.

Conduct a feasibility study on the establishment of a Children's Cabinet: The office shall conduct a feasibility study on the establishment of a Children's Cabinet. Several states, including Alaska, Arizona, Louisiana, Maine, New Jersey, New Mexico, Pennsylvania, Rhode Island, Tennessee, and West Virginia have Children's Cabinets. There are number of ways they can be set up, implemented and funded. According to the National Governors Association, important factors in determining the success of a Children's Cabinet are proper planning, support, and developing a proper mission to meet the needs of the state.

District Plans: Each district of the Department of Children and Families (DCF) shall develop a plan for its specific geographical region. The plan shall be submitted to the advisory council. In order to accomplish the development of the plan, the office shall establish a task force on the prevention of child abuse, abandonment, and neglect. The office shall appoint the members of the task force.

Evaluation: By February 1, 2009, the Legislature shall evaluate the office and determine whether it should continue to be housed in the Executive Office of the Governor or transferred to a state agency.

Independent Living

The bill amends s. 409.1451, Florida Statutes, related to independent living transition services, to include a number of new provisions. Specifically, the bill:

- Makes young adults who were placed with a court-approved nonrelative or guardian after reaching age 16 and have spent a minimum of 6 months in foster care to be eligible to be provided with independent living transition services;

- Requires the development of a plan by each community-based care service area to be submitted to the department;
- Provides for the direct deposit of RTI funds to the recipient with exceptions;
- Requires the development of a joint transition agreement and provides for access to a grievance process;
- Provides for community-based care lead agencies to purchase housing and other services in order to take advantage of economies of scale; and
- Provides for the expansion of Kidcare coverage for eligible young adults until age 20.

Additionally, the bill amends s.1009.25, Florida Statutes, to require that certain educational fee exemptions be granted to those individuals who, after spending at least 6 months in the custody of DCF after reaching age 16, were placed in a guardianship by the court.

Public School Personnel

The bill adds public school employees back into the definition of "other person responsible for a child's welfare." This makes public school personnel subject to the reporting requirements of Chapter 39, F.S.

Boarding Schools

The bill requires boarding schools to be accredited by either the Florida Council of Independent Schools or the Southern Association of Colleges and Schools and the Council on Accreditation. It also provides that a boarding school currently in existence or opening and seeking accreditation has three years to comply with the provisions of the bill. The bill provides sanctions for those schools not in compliance by failing to provide evidence of accreditation, documentation of an ongoing accreditation process or registration with the Department of Education.

Statewide and Local Advocacy Councils (SAC)

The bill adds language intended to resolve obstacles faced by the SAC in obtaining "client" records in those cases where information is entitled to them. The amended language restates the intent of the Legislature to use citizen volunteers as members of the SAC "to discover, monitor, investigate, and determine the presence of conditions or individuals that constitute a threat to the rights, health, safety, or welfare of persons who receive services from state agencies." The bill clarify that it is further the intent of the Legislature that certain state agencies cooperate with the SAC to provide access to necessary client records.

The bill strengthens the ability of the SAC, and particularly the local councils, to monitor, investigate and resolve claims of abuse and neglect. The bill accomplishes this through the following provisions:

(1) Encourages the Governor to give priority consideration to an individual with expertise in research design, statistical analysis, and/or agency evaluation in the selection of an executive director.
(2) Provides that for all self-generated complaints the SAC shall develop written protocol to provide the Governor's Office including the nature of the abuse or neglect, the agencies involved, additional information, and a strategy for approaching the problem.
(3) Reduces the number of meeting requirements from six times per year to one time per year; and maintains the option for the SAC to hold additional meetings at the call of the Governor, or by written request of a specified number of members including the executive director.
(4) Specifies the information contained in the interagency agreements between the SAC and state agencies, and to require that agreements are completed and reported to the Governor annually by no later than February 1 each year.

C. SECTION DIRECTORY:

Section 1: Amends s. 39.001, F.S., revising legislative purposes and intent of the chapter to include child abuse prevention; creates the Office of Child Abuse Prevention.

Section 2: Amends s. 39.0014, F.S., requiring all public agencies to cooperate and provide information to the Office of Child Abuse Prevention to meet its responsibilities.

Section 3: Amends s. 39.0015, F.S., revising the definition of "child abuse."

Section 4: Amends s. 39.01, F.S., adding definition of "office" and revising definitions of "other person responsible for a child's welfare."

Section 5: Amends s. 39.202, F.S., providing access to records for agencies that provide early intervention and prevention services.

Section 6: Amends s. 39.302, F.S., providing a cross-reference.

Section 7: Amends s. 402.164, F.S., establishing legislative intent for the statewide and local advocacy councils.

Section 8: Amends s. 402.165, F.S., providing guidelines for selection of the executive director of the Florida Statewide Advocacy Council, establishing a process for investigating reports of abuse, revising council meeting requirements, providing requirements for interagency agreements, and requiring interagency agreement to be renewed annually and submitted to the Governor by a specified date.

Section 9: Amends s. 409.1451, F.S., revising duties of the department regarding independent living transition services.

Section 10: Amends s. 409.175, F.S., revising the definition of "boarding school" to require such schools to meet certain standards within a specified timeframe.

Sections 11 and 12: Amend ss. 39.013 and 39.701, F.S., conforming references to changes made in the act.

Section 13: Amends s. 1009.25, F.S., providing for fee exemption for eligible students.

Section 14: Provides that the act shall take effect July 1, 2006, only if a specific appropriation to fund the provisions of the bill is made in the General Appropriations Act for Fiscal Year 2006-2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The state will earn $3,994,766 in Title XIX (Medicaid) funds for the expansion of health care coverage for young adults formerly in foster care up to their 20th birthday.

2. Expenditures:

   See Fiscal Comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments section.

D. FISCAL COMMENTS:

The Department of Children and Family Services provided the following Fiscal Comments on the Office of Child Abuse Prevention:

- The creation of this new office per the proposed bill language will require new appropriations. Three staff positions are needed to carry out the oversight, monitoring and analysis of the Prevention activities: Administration Director, Senior Management Analyst and an Administrative Assistant II. There will be a recurring budget need of **$228,180** for Salaries, Expense and Human Resources; and a non-recurring budget need of **$15,377** for Expense and Operating Capital Outlay. The salary numbers reflect a 10% above base minimum with a 2.5% increase for Fiscal Year 2006-07 and Fiscal Year 2007-08.

The Department of Children and Family Services provided the following Fiscal Comments on the Independent Living sections of the bill:

Expansion of the foster care population eligible to receive independent living transition services:

- An ad hoc report provided by the department's data staff indicates that 188 youth turned age 18 during FY04/05 who were in an unlicensed setting for at least 6 months and placed at age 16 or after. Approximately 50% of the total number of young adults exiting foster care received services from the RTI scholarship services, transitional support services, and/or aftercare support services.

- If the equivalent percentage of young adults who age out of unlicensed placements, as mentioned above, became eligible for the Road to Independence Program award, the additional participants would equal 188 x .50 = 94. The maximum amount of funding that each young adult could receive per year through the Road to Independence Program is $5,000. The 94 additional participants would be potentially eligible for services until their 23rd birthday.

- Estimated costs per year to fund additional participants: 94 times $5,000 equals $470,000 x 5 years of participants (18, 19, 20, 21 and 22 year olds) not yet 23 years of age equals a total of **$2,350,000** per year.

Increase in Casework Staff for Expanded Population:

- A reasonable number of casework staff would be required in order to determine eligibility for services, provide outreach, and provide case management. A 1:20 caseload ratio would be reasonable to provide these services for young adults. As assumed previously, an additional 94 young adults may be served with young adult services each year until age 23. Ninety-four young adults times 5 years equals 470 recipients divided by 20 = 23.5 additional staff needed. Supervisory staff will also be needed at a 6 to 1 ratio for a total of 4 additional supervisors.

- 23.5 caseworkers at $44,531 per year = $1,046,477 for salaries. There will be a recurring budget need of **$1,206,184** for salaries, expense and human resources; and a non-recurring budget need of **$123,211** for expense and operating capital outlay. The salary number reflects a 10% above base minimum with a 2.5% increase for Fiscal Year 2006-07 and Fiscal Year 2007-08.

- 2 supervisors at $49,579 per year = $198,316 for salaries. There will be a recurring budget need of **$225,500** for salaries, expense and human resources; and a non-recurring budget need of **$20,972** for expense and operating capital outlay. The salary number reflects a 10% above base minimum with a 2.5% increase for Fiscal Year 2006-07 and Fiscal Year 2007-08.

Public School Personnel - The Department of Children and Family Services estimates that it will cost the agency **$215,404** in recurring costs for salaries, expense and human resources, and **$20,972** in non-recurring costs for expense and Operating Capital Outlay to implement this provision of the bill.

Expansion of Kidcare Coverage-The bill expands coverage of the Kidcare program for young adults formerly in foster care up to their 20th birthday. The estimated cost of this coverage is $2,802,522 annually in state general revenue funds. This is based on1,523 young adults age 18 and 19. The total cost would be $6,797,288, which includes the state general revenue funds and federal matching dollars of $3,994,766.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority is provided to the Executive Office of the Governor for creation of the Office of Child Abuse Prevention.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following comments were provided by the Department of Children and Family Services:

- The Florida Legislature, in 1982, in recognition of the importance of reducing maltreatment by addressing conditions that are likely to promote the prevention of abuse, mandated that the Department of Children and Families develop a statewide plan for child abuse prevention. Following the guidelines set forth in Florida statute, the Department of Children and Families established the Florida Interprogram Task Force to work at the state level and with local communities to develop a statewide plan for the prevention of child abuse, neglect and abandonment. Florida's Plan for Prevention of Child Abuse, Abandonment and Neglect: July 2005 - June 2010 was produced. Local communities also developed a local prevention of child abuse, neglect and abandonment plan.

- The Interprogram Task Force has provided technical assistance to the local planning coordinators for the development, implementation, and review of the local plans to assure implementation efforts are successful. The Interprogram Task Force provides technical assistance to the local planning coordinators, both as requested and on a monthly conference call with all state local planners.

- The Executive Committee of the Interprogram Task Force has met on a bi-monthly basis since September 2005 to assure compliance with state and local prevention plan implementation. In addition, the Task Force has seven subcommittees that meet at least monthly. The purpose of the subcommittees is to review quarterly progress reports received from the local planning teams, to provide recommendations on best practices to local planners and to assist with the development of the annual progress report to the Legislature due June 30th of each year.

- In collaboration with the Prevent Child Abuse America Florida Chapter, the Interprogram Task Force will be involved in the Prevention Month kick-off scheduled for April 4, 2006 at the State Capitol in Tallahassee. Prevent Child Abuse America Florida Chapter under contract with the Department of Children and Families provides the annual prevention campaign throughout the state. The theme this year is "Winds of Change."

- If this bill passes and creates an Office of Child Abuse Prevention within the Executive Office of the Governor, it would be replicating the responsibilities of the Department of Children and Families. A number of the proposed requirements are already being completed by the Department of Children and Families and community-based contract providers. Examples of these requirements that are already under way include:

    1. Annual reporting to the Governor, Legislatures, etc.
    2. Establishing a Child Abuse Prevention Advisory Board (this is the Interprogram Task Force).
    3. Providing statewide coordination or single state agency responsibility for oversight of these programs (the Department of Children and Families is the current agency responsible for coordination of programs).
    4. Developing a strategic program and funding initiative that links the separate jurisdictional activities of state agencies (this is planned for the future with the Executive Task Force).
    5. Developing a Child Abuse prevention public awareness campaign; this is done on a yearly basis in April (Child Abuse Prevention Month) under contract with the Ounce of Prevention.

The Office of Child Abuse Prevention may replicate efforts of the Department of Children and Families; however, the mission and purpose of the Department of Children and Family Services as stated in s. 20.19(1), F.S., is to "...work in partnership with local communities to ensure safety, well-being, and self-sufficiency of the people served, to develop a strategic plan for fulfilling its mission...to ensure that the department is accountable to the people of Florida, and to the extent allowed by law and within specific appropriations, the department shall deliver services by contract through private providers."

By having an Office of Child Abuse Prevention with its sole mission and focus towards prevention and intervention will create government efficiency:

- The current system targets all levels of child abuse: primary, secondary, and tertiary. Prevention programs are located at all levels of government and in many different state agencies. In our current system the primary focus is on "tertiary prevention," clinical services, for cases in which the child or family has experienced abuse. This is an appropriate focus because the children and their families need immediate help to deal with abuse, as is the role of the Department of Children and Family Services.

- However, the "after the fact" approach will not prevent child abuse in Florida – it may only prevent a recurrence. Primary prevention programs must not be a secondary thought if Florida wants to decrease the incidence of child abuse. In the long run, prevention reduces harm to children and increases state efficiency.

Statewide and Local Advocacy Councils (SAC)

The purpose for this section of the bill is to resolve difficulties faced by the SAC in obtaining "client" records in those cases where information may be entitled to them. It is increasingly clear that even when the SAC meets all state and federal requirements for obtaining "client" records from appropriate agencies, the SAC has been refused such records. Further, the SAC reports receiving records that have necessary information redacted from them, such as the address or name of the client for whom a report of abuse or neglect was filed. Some reasons for this include incomplete or out-of-date Interagency Agreements, or a lack of clarity on the part of both the SAC and agencies regarding what information is entitled to be shared.

Still, the SAC would need to meet other federal and state requirements before obtaining records, such as: Social Security Administration's requirement that the disclosure of information on Medicaid patients must be relevant to the administration of the state plan, and must have the consent of the recipient; and HIPAA's requirement that access to records is only permitted for persons with comparable standards of confidentiality.

Problems of access may be better addressed by restating the role of the SAC, clarifying the responsibilities of "client" agencies in cooperating with SAC requests, and standardizing the process through with Interagency Agreements and requests for records are generated.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 21, 2006, the bill was amended in the Fiscal Council to remove the appropriation from the bill. It was also amended to specify that the act shall take effect only if a specific appropriation to fund the provision of the bill is made in the General Appropriations Act for Fiscal Year 2006-2007.

The bill analysis is written to reflect these changes.

CHAMBER ACTION

The Fiscal Council recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the welfare of children; amending s. 39.001, F.S.; providing additional purposes of ch. 39, F.S.; revising legislative intent; creating the Office of Child Abuse Prevention within the Executive Office of the Governor; directing the Governor to appoint a director of the office; providing duties and responsibilities of the director; providing procedures for evaluation of child abuse prevention programs; requiring a report to the Governor, Legislature, secretaries of certain state agencies, and certain committees of the Legislature; providing for information to be included in the report; providing for the development and implementation of a state plan for the coordination of child abuse prevention programs and services; establishing a Child Abuse Prevention Advisory Council; providing for membership, duties, and responsibilities; requiring requests for funding to be based on the state plan; providing for review and revision of the state plan; granting rulemaking

authority to the Executive Office of the Governor; requiring the Legislature to evaluate the office by a specified date; amending s. 39.0014, F.S.; providing responsibilities of the office under ch. 39, F.S.; amending s. 39.01, F.S.; providing and revising definitions; amending s. 39.202, F.S.; providing access to records for agencies that provide early intervention and prevention services; amending ss. 39.0015 and 39.302, F.S.; conforming cross-references; amending s. 402.164, F.S.; establishing legislative intent for the statewide and local advocacy councils; amending s. 402.165, F.S.; providing guidelines for selection of the executive director of the Florida Statewide Advocacy Council; establishing a process for investigating reports of abuse; revising council meeting requirements; providing requirements for interagency agreements; requiring interagency agreements to be renewed annually and submitted to the Governor by a specified date; amending s. 409.1451, F.S., relating to independent living transition services; revising eligibility requirements for certain young adults; revising duties of the Department of Children and Family Services regarding independent living transition services; including additional parties in the review of a child's academic performance; requiring the department or a community-based care lead agency under contract with the department to develop a plan for delivery of such services; requiring additional aftercare support services; providing additional qualifications to

receive an award under the Road-to-Independence Program; providing procedures for the payment of awards; requiring collaboration between certain parties in the development of a plan regarding the provision of transitional services; requiring a community-based care lead agency to develop a plan for purchase and delivery of such services and requiring department approval prior to implementation; permitting the Independent Living Services Advisory Council to have access to certain data held by the department and certain agencies; amending s. 409.175, F.S.; revising the definition of the term "boarding school" to require such schools to meet certain standards within a specified timeframe; amending ss. 39.013, 39.701, and 1009.25, F.S.; conforming references to changes made by the act; providing a contingent effective date.

WHEREAS, in 2002, Florida was among only three other states and the District of Columbia to have the highest national child maltreatment rate, and

WHEREAS, during 2002, 142,547 investigations of abuse or neglect, involving 254,856 children, were completed, approximately one-half of which were substantiated or indicated the presence of abuse or neglect, and

WHEREAS, a Florida child is abused or neglected every 4 minutes and 10,000 Florida children are abused or neglected per month, and

WHEREAS, in 2004, according to the Florida Child Abuse Death Review Team, at least 111 Florida children died from abuse

or neglect at the hands of their parents or caretakers, an average rate of two dead children each week, and

WHEREAS, according to the Centers for Disease Control and Prevention, the cost of failing to prevent child abuse and neglect in 2001 equaled $94 billion a year nationally, and

WHEREAS, the direct costs of failing to prevent child abuse and neglect include the costs associated with the utilization of law enforcement services, the health care system, the mental health system, the child welfare system, and the judicial system, while the indirect costs include the provision of special education and mental health and health care, a rise in the incidence of juvenile delinquency, lost productivity to society, and adult criminality, and

WHEREAS, although prevention of child maltreatment will save lives and conserve resources, and despite the potential long-term benefit of preventing child abuse and neglect, only a small percentage of all resources specifically earmarked for child maltreatment in the state are actually devoted to the prevention of child maltreatment, and

WHEREAS, the 2005-2006 General Appropriations Act provided a total funding of $44 million for child abuse prevention and intervention to the Department of Children and Family Services, which amount represents less than 2 percent of the department's budget, and

WHEREAS, Healthy Families Florida is a community-based, voluntary home visiting program that received approximately $28.4 million for the 2005-2006 fiscal year from the Department of Children and Family Services and contracts with 37 community-

based organizations to provide services in targeted high-risk areas in 23 counties and to provide services in 30 total counties, and

WHEREAS, Healthy Families Florida participants had 20 percent less child maltreatment than all families in the Healthy Families Florida target service areas in spite of the fact that, in general, participants are at a significantly higher risk for child maltreatment than the overall population, and

WHEREAS, the Department of Children and Family Services, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, the Agency for Persons with Disabilities, and the Agency for Workforce Innovation all have programs that focus on primary and secondary prevention of child abuse and neglect, but there is no statewide coordination or single state agency responsible for oversight of these programs, and

WHEREAS, a statewide coordinated effort would result in better communication among agencies and provide for easier access and more efficiency in the delivery of abuse and neglect services in the communities, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (6) of section 39.001, Florida Statutes, are amended, subsections (7) and (8) are renumbered as subsections (8) and (9) and amended, present subsection (9) is renumbered as subsection (10), and new

subsections (7), (11), and (12) are added to that section, to read:

39.001 Purposes and intent; personnel standards and screening.--

(1) PURPOSES OF CHAPTER.--The purposes of this chapter are:

(a) To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; ~~and~~ to promote the health and well-being of all children under the state's care; and to prevent the occurrence of child abuse, neglect, and abandonment.

(b) To recognize that most families desire to be competent caregivers and providers for their children and that children achieve their greatest potential when families are able to support and nurture the growth and development of their children. Therefore, the Legislature finds that policies and procedures that provide for prevention and intervention through the department's child protection system should be based on the following principles:

1. The health and safety of the children served shall be of paramount concern.

2. The prevention and intervention should engage families in constructive, supportive, and nonadversarial relationships.

3. The prevention and intervention should intrude as little as possible into the life of the family, be focused on clearly defined objectives, and take the most parsimonious path to remedy a family's problems.

4. The prevention and intervention should be based upon outcome evaluation results that demonstrate success in protecting children and supporting families.

(c) To provide a child protection system that reflects a partnership between the department, other agencies, and local communities.

(d) To provide a child protection system that is sensitive to the social and cultural diversity of the state.

(e) To provide procedures which allow the department to respond to reports of child abuse, abandonment, or neglect in the most efficient and effective manner that ensures the health and safety of children and the integrity of families.

(f) To preserve and strengthen the child's family ties whenever possible, removing the child from parental custody only when his or her welfare cannot be adequately safeguarded without such removal.

(g) To ensure that the parent or legal custodian from whose custody the child has been taken assists the department to the fullest extent possible in locating relatives suitable to serve as caregivers for the child.

(h) To ensure that permanent placement with the biological or adoptive family is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year.

(i) To secure for the child, when removal of the child from his or her own family is necessary, custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to ensure, in all cases in

which a child must be removed from parental custody, that the child is placed in an approved relative home, licensed foster home, adoptive home, or independent living program that provides the most stable and potentially permanent living arrangement for the child, as determined by the court. All placements shall be in a safe environment where drugs and alcohol are not abused.

(j) To ensure that, when reunification or adoption is not possible, the child will be prepared for alternative permanency goals or placements, to include, but not be limited to, long-term foster care, independent living, custody to a relative on a permanent basis with or without legal guardianship, or custody to a foster parent or legal custodian on a permanent basis with or without legal guardianship.

(k) To make every possible effort, when two or more children who are in the care or under the supervision of the department are siblings, to place the siblings in the same home; and in the event of permanent placement of the siblings, to place them in the same adoptive home or, if the siblings are separated, to keep them in contact with each other.

(l) To provide judicial and other procedures to assure due process through which children, parents, and guardians and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.

(m) To ensure that children under the jurisdiction of the courts are provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.

(n) To create and maintain an integrated prevention framework that enables local communities, state agencies, and organizations to collaborate to implement efficient and properly applied evidence-based child abuse prevention practices.

(6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE, ABANDONMENT, AND NEGLECT OF CHILDREN.--The incidence of known child abuse, abandonment, and neglect has increased rapidly over the past 5 years. The impact that abuse, abandonment, or neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse, abandonment, and neglect shall be a priority of this state. To further this end, it is the intent of the Legislature that an Office of Child Abuse Prevention be established ~~a comprehensive approach for the prevention of abuse, abandonment, and neglect of children be developed for the state and that this planned, comprehensive approach be used as a basis for funding~~.

(7) OFFICE OF CHILD ABUSE PREVENTION.--

(a) For purposes of establishing a comprehensive statewide approach for the prevention of child abuse, abandonment, and neglect, the Office of Child Abuse Prevention is created within

the Executive Office of the Governor. The Governor shall appoint a director for the office who shall be subject to confirmation by the Senate.

(b) The director shall:

1. Formulate and recommend rules pertaining to implementation of child abuse prevention efforts.

2. Act as the Governor's liaison with state agencies, other state governments, and the public and private sectors on matters that relate to child abuse prevention.

3. Work to secure funding and other support for the state's child abuse prevention efforts, including, but not limited to, establishing cooperative relationships among state and private agencies.

4. Develop a strategic program and funding initiative that links the separate jurisdictional activities of state agencies with respect to child abuse prevention. The office may designate lead and contributing agencies to develop such initiatives.

5. Advise the Governor and the Legislature on child abuse trends in this state, the status of current child abuse prevention programs and services, the funding of those programs and services, and the status of the office with regard to the development and implementation of the state child abuse prevention strategy.

6. Develop child abuse prevention public awareness campaigns to be implemented throughout the state.

(c) The office is authorized and directed to:

1. Oversee the preparation and implementation of the state plan established under subsection (8) and revise and update the state plan as necessary.

2. Conduct, otherwise provide for, or make available continuing professional education and training in the prevention of child abuse and neglect.

3. Work to secure funding in the form of appropriations, gifts, and grants from the state, the Federal Government, and other public and private sources in order to ensure that sufficient funds are available for prevention efforts.

4. Make recommendations pertaining to agreements or contracts for the establishment and development of:

a. Programs and services for the prevention of child abuse and neglect.

b. Training programs for the prevention of child abuse and neglect.

c. Multidisciplinary and discipline-specific training programs for professionals with responsibilities affecting children, young adults, and families.

5. Monitor, evaluate, and review the development and quality of local and statewide services and programs for the prevention of child abuse and neglect and shall publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President of the Senate, the secretary of each state agency affected by the report, and the appropriate substantive committees of the Legislature. The report shall include:

a. A summary of the activities of the office.

b. A summary detailing the demographic and geographic characteristics of families served by the prevention programs.

c. Recommendations, by state agency, for the further development and improvement of services and programs for the prevention of child abuse and neglect.

d. The budget requests and prevention program needs by state agency.

(8) ~~(7)~~ PLAN FOR COMPREHENSIVE APPROACH.--

(a) The office ~~department~~ shall develop a state plan for the prevention of abuse, abandonment, and neglect of children and shall submit the state plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than December 31, 2007 ~~January 1, 1983~~. The Department of Children and Family Services, the Department of Corrections, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, the Agency for Persons with Disabilities, and the Agency for Workforce Innovation ~~The Department of Education and the Division of Children's Medical Services Prevention and Intervention of the Department of Health~~ shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the

school boards of the local school districts; the Florida local advocacy councils; community-based care lead agencies; private or public organizations or programs with recognized expertise in working with child abuse prevention programs for children and families; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies;~~,~~ and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

(b) The development of the ~~comprehensive~~ state plan shall be accomplished in the following manner:

1. The office shall establish a Child Abuse Prevention Advisory Council composed of representatives from each state agency and appropriate local agencies and organizations specified in paragraph (a). The advisory council shall serve as the research arm of the office and ~~The department shall establish an interprogram task force comprised of the Program Director for Family Safety, or a designee, a representative from the Child Care Services Program Office, a representative from the Family Safety Program Office, a representative from the Mental Health Program Office, a representative from the~~

~~Substance Abuse Program Office, a representative from the Developmental Disabilities Program Office, and a representative from the Division of Children's Medical Services Prevention and Intervention of the Department of Health. Representatives of the Department of Law Enforcement and of the Department of Education shall serve as ex officio members of the interprogram task force. The interprogram task force~~ shall be responsible for:

a. Assisting in developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse, abandonment, and neglect conducted by the office ~~department~~ in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.

b. Assisting in providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.

c. Providing the districts with technical assistance in the development of local plans of action, if requested.

d. Assisting in examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and requesting the additional information needed.

e. Assisting in preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the incorporation into the state plan ~~collapsing~~ of information obtained from the local plans, the cooperative plans with the

members of the advisory council ~~Department of Education~~, and the plan of action for coordination and integration of state departmental activities ~~into one comprehensive plan~~. The state ~~comprehensive~~ plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the state plan shall provide an analysis and summary of each element of the local plans to provide a statewide perspective. The state plan shall also include each separate local plan of action.

f. Conducting a feasibility study on the establishment of a Children's Cabinet.

g.~~f.~~ Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.

2. The office, the department, the Department of Education, and the Department of Health shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.

3. The office, the department, the Department of Law Enforcement, and the Department of Health shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child abuse, abandonment, and neglect and in the proper action that should be

taken in a suspected case of child abuse, abandonment, or neglect.

4. Within existing appropriations, the office ~~department~~ shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect. The plan for accomplishing this end shall be included in the state plan.

5. The office, the department, the Department of Education, and the Department of Health shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse, abandonment, and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progressional levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the ~~comprehensive~~ state plan for the prevention of child abuse, abandonment, and neglect.

6. Each district of the department shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the advisory council ~~interprogram task force~~ for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in this paragraph ~~(a)~~, as well as

representatives from those departmental district offices participating in the treatment and prevention of child abuse, abandonment, and neglect. In order to accomplish this, the office ~~district administrator in each district~~ shall establish a task force on the prevention of child abuse, abandonment, and neglect. The office ~~district administrator~~ shall appoint the members of the task force in accordance with the membership requirements of this section. The office ~~In addition, the district administrator shall ensure that each subdistrict is represented on the task force; and, if the district does not have subdistricts, the district administrator~~ shall ensure that both urban and rural areas are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child abandonment and neglect in its geographical area.

b. A description of programs currently serving abused, abandoned, and neglected children and their families and a description of programs for the prevention of child abuse, abandonment, and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.

c. A continuum of programs and services necessary for a comprehensive approach to the prevention of all types of child

abuse, abandonment, and neglect as well as a brief description of such programs and services.

d. A description, documentation, and priority ranking of local needs related to child abuse, abandonment, and neglect prevention based upon the continuum of programs and services.

e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.

f. A description of barriers to the accomplishment of a comprehensive approach to the prevention of child abuse, abandonment, and neglect.

g. Recommendations for changes that can be accomplished only at the state program level or by legislative action.

(9) ~~(8)~~ FUNDING AND SUBSEQUENT PLANS.--

(a) All budget requests submitted by the office, the department, the Department of Health, the Department of Education, the Department of Juvenile Justice, the Department of Corrections, the Agency for Persons with Disabilities, the Agency for Workforce Innovation, or any other agency to the Legislature for funding of efforts for the prevention of child abuse, abandonment, and neglect shall be based on the state plan developed pursuant to this section.

(b) The office ~~department at the state and district levels~~ and the other agencies and organizations listed in paragraph

(8)(a) ~~(7)(a)~~ shall readdress the state plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. At least biennially, the office shall review the state plan and make any necessary revisions based on changing needs and program evaluation results. An annual progress report shall be submitted to update the state plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the prevention of child abuse, abandonment, and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

(11) RULEMAKING.--The Executive Office of the Governor shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(12) EVALUATION.--By February 1, 2009, the Legislature shall evaluate the office and determine whether it should continue to be housed in the Executive Office of the Governor or transferred to a state agency.

Section 2. Section 39.0014, Florida Statutes, is amended to read:

39.0014 Responsibilities of public agencies.--All state, county, and local agencies shall cooperate, assist, and provide information to the Office of Child Abuse Prevention ~~department~~

as will enable it to fulfill its responsibilities under this chapter.

Section 3. Paragraph (b) of subsection (3) of section 39.0015, Florida Statutes, is amended to read:

39.0015 Child abuse prevention training in the district school system.--

(3) DEFINITIONS.--As used in this section:

(b) "Child abuse" means those acts as defined in ss. 39.01(1), (2), (30), (43), (45), (53) ~~(52)~~, and (64) ~~(63)~~, 827.04, and 984.03(1), (2), and (37).

Section 4. Subsections (47) through (72) of section 39.01, Florida Statutes, are renumbered as subsections (48) through (73), present subsections (10) and (47) are amended, and a new subsection (47) is added to that section, to read:

39.01 Definitions.--When used in this chapter, unless the context otherwise requires:

(10) "Caregiver" means the parent, legal custodian, adult household member, or other person responsible for a child's welfare as defined in subsection (48) ~~(47)~~.

(47) "Office" means the Office of Child Abuse Prevention within the Executive Office of the Governor.

(48) ~~(47)~~ "Other person responsible for a child's welfare" includes the child's legal guardian, legal custodian, or foster parent; an employee of any ~~a private~~ school, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the

purpose of departmental investigative jurisdiction, this definition does not include law enforcement officers, or employees of municipal or county detention facilities or the Department of Corrections, while acting in an official capacity.

Section 5. Paragraph (a) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.--

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, or county agencies responsible for carrying out:

1. Child or adult protective investigations;

2. Ongoing child or adult protective services;

3. Early intervention and prevention services;

4.~~3.~~ Healthy Start services; ~~or~~

5.~~4.~~ Licensure or approval of adoptive homes, foster homes, or child care facilities, or family day care homes or informal child care providers who receive subsidized child care funding, or other homes used to provide for the care and welfare of children; or~~.~~

6.~~5.~~ Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

Section 6. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.--

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(31) or (48) ~~(47)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established by the central abuse hotline pursuant to s. 39.201(5) and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations onsite or having face-to-face interviews with the child, such investigation visits shall be unannounced unless it is determined by the department or its agent that such unannounced visits would threaten the safety of the child. When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation shall be entitled to full access to the information gathered by the department in the course of the

investigation. A protective investigation must include an onsite visit of the child's place of residence. In all cases, the department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 7. Subsection (1) of section 402.164, Florida Statutes, is amended to read:

402.164 Legislative intent; definitions.--

(1)(a) It is the intent of the Legislature to use citizen volunteers as members of the Florida Statewide Advocacy Council and the Florida local advocacy councils, and to have volunteers operate a network of councils that shall, without interference by an executive agency, undertake to discover, monitor, investigate, and determine the presence of conditions or individuals that constitute a threat to the rights, health, safety, or welfare of persons who receive services from state agencies.

(b) It is the further intent of the Legislature that the monitoring and investigation shall safeguard the health, safety,

and welfare of consumers of services provided by these state agencies.

(c) It is the further intent of the Legislature that state agencies cooperate with the councils in forming interagency agreements to provide the councils with authorized client records so that the councils may monitor services and investigate claims.

Section 8. Subsections (5) and (7) of section 402.165, Florida Statutes, are amended to read:

402.165 Florida Statewide Advocacy Council; confidential records and meetings.--

(5)(a) Members of the statewide council shall receive no compensation, but are entitled to be reimbursed for per diem and travel expenses in accordance with s. 112.061.

(b) The Governor shall select an executive director who shall serve at the pleasure of the Governor and shall perform the duties delegated to him or her by the council. The compensation of the executive director and staff shall be established in accordance with the rules of the Selected Exempt Service. The Governor shall give priority consideration in the selection of an executive director to an individual with professional expertise in research design, statistical analysis, or agency evaluation and analysis.

(c) The council may apply for, receive, and accept grants, gifts, donations, bequests, and other payments including money or property, real or personal, tangible or intangible, and service from any governmental or other public or private entity or person and make arrangements as to the use of same.

(d) The statewide council shall annually prepare a budget request that, after it is approved by the council, shall be submitted to the Governor. The budget shall include a request for funds to carry out the activities of the statewide council and the local councils.

(7) The responsibilities of the statewide council include, but are not limited to:

(a) Serving as an independent third-party mechanism for protecting the constitutional and human rights of clients within programs or facilities operated, funded, or contracted by any state agency that provides client services.

(b) Monitoring, by site visit and through access to records, the delivery and use of services, programs, or facilities operated, funded, or contracted by any state agency that provides client services, for the purpose of preventing abuse or deprivation of the constitutional and human rights of clients. The statewide council may conduct an unannounced site visit or monitoring visit that involves the inspection of records if the visit is conditioned upon a complaint. A complaint may be generated by the council itself, after consulting with the Governor's office, if information from any state agency that provides client services or from other sources indicates a situation at the program or facility that indicates possible abuse or neglect or deprivation of the constitutional and human rights of clients. The statewide council shall establish and follow uniform criteria for the review of information and generation of complaints. The statewide council shall develop a written protocol for all complaints it generates

to provide the Governor's office with information including the nature of the abuse or neglect, the agencies involved, the populations or numbers of individuals affected, the types of records necessary to complete the investigation, and a strategy for approaching the problem. Routine program monitoring and reviews that do not require an examination of records may be made unannounced.

(c) Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights referred to the statewide council by a local council. If a matter constitutes a threat to the life, safety, or health of clients or is multiservice-area in scope, the statewide council may exercise its powers without the necessity of a referral from a local council.

(d) Reviewing existing programs or services and new or revised programs of the state agencies that provide client services and making recommendations as to how the rights of clients are affected.

(e) Submitting an annual report to the Legislature, no later than December 30 of each calendar year, concerning activities, recommendations, and complaints reviewed or developed by the council during the year.

(f) Conducting meetings at least one time ~~six times~~ a year at the call of the chair and at other times at the call of the Governor or by written request of eight ~~six~~ members of the council including the executive director.

(g) Developing and adopting uniform procedures to be used to carry out the purpose and responsibilities of the statewide council and the local councils.

(h) Supervising the operations of the local councils and monitoring the performance and activities of all local councils and providing technical assistance to members of local councils.

(i) Providing for the development and presentation of a standardized training program for members of local councils.

(j) Developing and maintaining interagency agreements between the council and the state agencies providing client services. The interagency agreements shall address the coordination of efforts and identify the roles and responsibilities of the statewide and local councils and each agency in fulfillment of their responsibilities, including access to records. The interagency agreements shall explicitly define a process that the statewide and local councils shall use to request records from the agency and shall define a process for appeal when disputes about access to records arise between staff and council members. Interagency agreements shall be renewed annually and shall be completed and reported to the Governor no later than February 1.

Section 9. Section 409.1451, Florida Statutes, is amended to read:

409.1451 Independent living transition services.--

(1) SYSTEM OF SERVICES.--

(a) The Department of Children and Family Services, its agents, or community-based providers operating pursuant to s. 409.1671 shall administer a system of independent living

transition services to enable older children in foster care and young adults who exit foster care at age 18 to make the transition to self-sufficiency as adults.

(b) The goals of independent living transition services are to assist older children in foster care and young adults who were formerly in foster care to obtain life skills and education for independent living and employment, to have a quality of life appropriate for their age, and to assume personal responsibility for becoming self-sufficient adults.

(c) State funds for foster care or federal funds shall be used to establish a continuum of services for eligible children in foster care and eligible young adults who were formerly in foster care which accomplish the goals for the system of independent living transition services by providing services for foster children, pursuant to subsection (4), and services for young adults who were formerly in foster care, pursuant to subsection (5).

(d) For children in foster care, independent living transition services are not an alternative to adoption. Independent living transition services may occur concurrently with continued efforts to locate and achieve placement in adoptive families for older children in foster care.

(2) ELIGIBILITY.--

(a) The department shall serve children who have reached 13 years of age but are not yet 18 years of age and who are in foster care by providing services pursuant to subsection (4). Children to be served must meet the eligibility requirements set forth for specific services as provided in this section.

(b) The department shall serve young adults who have reached 18 years of age or were placed with a court-approved nonrelative or guardian after reaching 16 years of age and have spent a minimum of 6 months in foster care ~~but are not yet 23 years of age and who were in foster care when they turned 18 years of age~~ by providing services pursuant to subsection (5). Young adults are not entitled to be served but must meet the eligibility requirements set forth for specific services in this section.

(3) PREPARATION FOR INDEPENDENT LIVING.--

(a) It is the intent of the Legislature for the Department of Children and Family Services to assist older children in foster care and young adults who exit foster care at age 18 in making the transition to independent living and self-sufficiency as adults. The department shall provide such children and young adults with opportunities to participate in life skills activities in their foster families and communities which are reasonable and appropriate for their respective ages or for any special needs they may have~~,~~ and shall provide them with services to build life ~~the~~ skills and increase their ability to live independently and become self-sufficient. To support the provision of opportunities for participation in age-appropriate life skills activities, the department shall:

1. Develop a list of age-appropriate activities and responsibilities to be offered to all children involved in independent living transition services and their foster parents.

2. Provide training for staff and foster parents to address the issues of older children in foster care in

transitioning to adulthood, which shall include information on high school completion, grant applications, vocational school opportunities, supporting education and employment opportunities, and ~~providing~~ opportunities to participate in appropriate daily activities.

3. Develop procedures to maximize the authority of foster parents or caregivers to approve participation in age-appropriate activities of children in their care. The age-appropriate activities and the authority of the foster parent or caregiver shall be developed into a written plan that the foster parent or caregiver, the child, and the case manager all develop together, sign, and follow. This plan must include specific goals and objectives and be reviewed and updated no less than quarterly.

4. Provide opportunities for older children in foster care to interact with mentors.

5. Develop and implement procedures for older children to directly access and manage the personal allowance they receive from the department in order to learn responsibility and participate in age-appropriate life skills activities to the extent feasible.

6. Make a good faith effort to fully explain, prior to execution of any signature, if required, any document, report, form, or other record, whether written or electronic, presented to a child or young adult pursuant to this chapter and allow for the recipient to ask any appropriate questions necessary to fully understand the document. It shall be the responsibility of

the person presenting the document to the child or young adult to comply with this subparagraph.

(b) It is further the intent of the Legislature that each child in foster care, his or her foster parents, if applicable, and the department or community-based provider set early achievement and career goals for the child's postsecondary educational and work experience. The department and community-based providers shall implement the model set forth in this paragraph to help ensure that children in foster care are ready for postsecondary education and the workplace.

1. For children in foster care who have reached 13 years of age, ~~entering the 9th grade, their foster parents, and~~ the department or community-based provider shall ensure that the child's case plan includes an educational and career path ~~be active participants in choosing a post-high school goal~~ based upon both the abilities and interests of each child. The child, the foster parents, and a teacher or other school staff member shall be included to the fullest extent possible in developing the path. The path shall be reviewed at each judicial hearing as part of the case plan and ~~goal~~ shall accommodate the needs of children served in exceptional education programs to the extent appropriate for each individual. Such children may continue to follow the courses outlined in the district school board student progression plan. Children in foster care, with the assistance of their foster parents, and the department or community-based provider shall choose one of the following postsecondary goals:

a. Attending a 4-year college or university, a community college plus university, or a military academy;

b. Receiving a 2-year postsecondary degree;

c. Attaining a postsecondary career and technical certificate or credential; or

d. Beginning immediate employment, including apprenticeship, after completion of a high school diploma or its equivalent, or enlisting in the military.

2. In order to assist the child in foster care in achieving his or her chosen goal, the department or community-based provider shall, with the participation of the child and foster parents, identify:

a. The core courses necessary to qualify for a chosen goal.

b. Any elective courses which would provide additional help in reaching a chosen goal.

c. The grade point requirement and any additional information necessary to achieve a specific goal.

d. A teacher, other school staff member, employee of the department or community-based care provider, or community volunteer who would be willing to work with the child as an academic advocate or mentor if foster parent involvement is insufficient or unavailable.

3. In order to complement educational goals, the department and community-based providers are encouraged to form partnerships with the business community to support internships, apprenticeships, or other work-related opportunities.

4. The department and community-based providers shall ensure that children in foster care and their foster parents are made aware of the postsecondary goals available and shall assist

in identifying the coursework necessary to enable the child to reach the chosen goal.

(c) All children in foster care and young adults formerly in foster care are encouraged to take part in learning opportunities that result from participation in community service activities.

(d) Children in foster care and young adults formerly in foster care shall be provided with the opportunity to change from one postsecondary goal to another, and each postsecondary goal shall allow for changes in each individual's needs and preferences. Any change, particularly a change that will result in additional time required to achieve a goal, shall be made with the guidance and assistance of the department or community-based provider.

(4) SERVICES FOR CHILDREN IN FOSTER CARE.--The department shall provide the following transition to independence services to children in foster care who meet prescribed conditions and are determined eligible by the department. The service categories available to children in foster care which facilitate successful transition into adulthood are:

(a) Preindependent living services.--

1. Preindependent living services include, but are not limited to, life skills training, educational field trips, and conferences. The specific services to be provided to a child shall be determined using a preindependent living assessment.

2. A child who has reached 13 years of age but is not yet 15 years of age who is in foster care is eligible for such services.

3. The department shall conduct an annual staffing for each child who has reached 13 years of age but is not yet 15 years of age to ensure that the preindependent living training and services to be provided as determined by the preindependent living assessment are being received and to evaluate the progress of the child in developing the needed independent living skills.

4. At the first annual staffing that occurs following a child's 14th birthday, and at each subsequent staffing, the department or community-based provider shall ensure that the child's case plan includes an educational and career path based upon both the abilities and interests of each child and shall provide to each child detailed personalized information on services provided by the Road-to-Independence ~~Scholarship~~ Program, including requirements for eligibility; on other grants, scholarships, and waivers that are available and should be sought by the child with assistance from the department, including, but not limited to, the Bright Futures Scholarship Program, as provided in ss. 1009.53-1009.538; on application deadlines; and on grade requirements for such programs.

5. Information related to both the preindependent living assessment and all staffings, which shall be reduced to writing and signed by the child participant, shall be included as a part of the written report required to be provided to the court at each judicial review held pursuant to s. 39.701.

(b) Life skills services.--

1. Life skills services may include, but are not limited to, independent living skills training, including training to

develop banking and budgeting skills, interviewing skills, parenting skills, and time management or organizational skills, educational support, employment training, and counseling. Children receiving these services should also be provided with information related to social security insurance benefits and public assistance. The specific services to be provided to a child shall be determined using an independent life skills assessment.

2. A child who has reached 15 years of age but is not yet 18 years of age who is in foster care is eligible for such services.

3. The department shall conduct a staffing at least once every 6 months for each child who has reached 15 years of age but is not yet 18 years of age to ensure that the appropriate independent living training and services as determined by the independent life skills assessment are being received and to evaluate the progress of the child in developing the needed independent living skills.

4. The department shall provide to each child in foster care during the calendar month following the child's 17th birthday an independent living assessment to determine the child's skills and abilities to live independently and become self-sufficient. Based on the results of the independent living assessment, services and training shall be provided in order for the child to develop the necessary skills and abilities prior to the child's 18th birthday.

5. Information related to both the independent life skills assessment and all staffings, which shall be reduced to writing

and signed by the child participant, shall be included as a part of the written report required to be provided to the court at each judicial review held pursuant to s. 39.701.

(c) Subsidized independent living services.--

1. Subsidized independent living services are living arrangements that allow the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under s. 409.175.

2. A child who has reached 16 years of age but is not yet 18 years of age is eligible for such services if he or she:

a. Is adjudicated dependent under chapter 39; has been placed in licensed out-of-home care for at least 6 months prior to entering subsidized independent living; and has a permanency goal of adoption, independent living, or long-term licensed care; and

b. Is able to demonstrate independent living skills, as determined by the department, using established procedures and assessments.

3. Independent living arrangements established for a child must be part of an overall plan leading to the total independence of the child from the department's supervision. The plan must include, but need not be limited to, a description of the skills of the child and a plan for learning additional identified skills; the behavior that the child has exhibited which indicates an ability to be responsible and a plan for developing additional responsibilities, as appropriate; a plan for future educational, vocational, and training skills; present financial and budgeting capabilities and a plan for improving

resources and ability; a description of the proposed residence; documentation that the child understands the specific consequences of his or her conduct in the independent living program; documentation of proposed services to be provided by the department and other agencies, including the type of service and the nature and frequency of contact; and a plan for maintaining or developing relationships with the family, other adults, friends, and the community, as appropriate.

4. Subsidy payments in an amount established by the department may be made directly to a child under the direct supervision of a caseworker or other responsible adult approved by the department.

(5) SERVICES FOR YOUNG ADULTS FORMERLY IN FOSTER CARE.--Based on the availability of funds, the department shall provide or arrange for the following services to young adults formerly in foster care who meet the prescribed conditions and are determined eligible by the department. The department, or a community-based care lead agency when the agency is under contract with the department to provide the services described under this subsection, shall develop a plan to implement those services. A plan shall be developed for each community-based care service area in the state. Each plan that is developed by a community-based care lead agency shall be submitted to the department. Each plan shall include the number of young adults to be served each month of the fiscal year and specify the number of young adults who will reach 18 years of age who will be eligible for the plan and the number of young adults who will reach 23 years of age and will be ineligible for the plan or who

are otherwise ineligible during each month of the fiscal year; staffing requirements and all related costs to administer the services and program; expenditures to or on behalf of the eligible recipients; costs of services provided to young adults through an approved plan for housing, transportation, and employment; reconciliation of these expenses and any additional related costs with the funds allocated for these services; and an explanation of and a plan to resolve any shortages or surpluses in order to end the fiscal year with a balanced budget. The categories of services available to assist a young adult formerly in foster care to achieve independence are:

(a) Aftercare support services.--

1. Aftercare support services are available to assist young adults who were formerly in foster care in their efforts to continue to develop the skills and abilities necessary for independent living. The aftercare support services available include, but are not limited to, the following:

a. Mentoring and tutoring.

b. Mental health services and substance abuse counseling.

c. Life skills classes, including credit management and preventive health activities.

d. Parenting classes.

e. Job and career skills training.

f. Counselor consultations.

g. Temporary financial assistance.

h. Financial literacy skills training.

The specific services to be provided under this subparagraph shall be determined by an aftercare services assessment and may be provided by the department or through referrals in the community.

2. Temporary assistance provided to prevent homelessness shall be provided as expeditiously as possible and within the limitations defined by the department.

3.~~2.~~ A young adult who has reached 18 years of age but is not yet 23 years of age who leaves foster care at 18 years of age but who requests services prior to reaching 23 years of age is eligible for such services.

(b) Road-to-Independence ~~Scholarship~~ Program.--

1. The Road-to-Independence ~~Scholarship~~ Program is intended to help eligible students who are former foster children in this state to receive the educational and vocational training needed to achieve independence. The amount of the award shall be based on the living and educational needs of the young adult and may be up to, but may not exceed, the amount of earnings that the student would have been eligible to earn working a 40-hour-a-week federal minimum wage job.

2. A young adult who has reached 18 years of age but is not yet 21 years of age is eligible for the initial award, and a young adult under 23 years of age is eligible for renewal awards, if he or she:

a. Was a dependent child, under chapter 39, and was living in licensed foster care or in subsidized independent living at the time of his or her 18th birthday or is currently in licensed foster care or subsidized independent living, was adopted from

foster care after reaching 16 years of age, or, after spending at least 6 months in the custody of the department after reaching 16 years of age, was placed in a guardianship by the court;

b. Spent at least 6 months living in foster care before reaching his or her 18th birthday;

c. Is a resident of this state as defined in s. 1009.40; and

d. Meets one of the following qualifications:

(I) Has earned a standard high school diploma or its equivalent as described in s. 1003.43 or s. 1003.435, or has earned a special diploma or special certificate of completion as described in s. 1003.438, and has been admitted for full-time enrollment in an eligible postsecondary education institution as defined in s. 1009.533;

(II) Is enrolled full time in an accredited high school; or

(III) Is enrolled full time in an accredited adult education program designed to provide the student with a high school diploma or its equivalent.

3. A young adult applying for the ~~a~~ Road-to-Independence Program ~~Scholarship~~ must apply for any other grants and scholarships for which he or she may qualify. The department shall assist the young adult in the application process and may use the federal financial aid grant process to determine the funding needs of the young adult.

4. An award shall be available to a young adult who is considered a full-time student or its equivalent by the

educational institution in which he or she is enrolled, unless that young adult has a recognized disability preventing full-time attendance. The amount of the award, whether it is being used by a young adult working toward completion of a high school diploma or its equivalent or working toward completion of a postsecondary education program, shall be determined based on an assessment of the funding needs of the young adult. This assessment must consider the young adult's living and educational costs and other grants, scholarships, waivers, earnings, and other income to be received by the young adult. An award shall be available only to the extent that other grants and scholarships are not sufficient to meet the living and educational needs of the young adult, but an award may not be less than $25 in order to maintain Medicaid eligibility for the young adult as provided in s. 409.903.

5.a. The department must advertise the criteria, application procedures, and availability of the program to:

(I) Children and young adults in, leaving, or formerly in foster care.

(II) Case managers.

(III) Guidance and family services counselors.

(IV) Principals or other relevant school administrators ~~and must ensure that the children and young adults leaving foster care, foster parents, or family services counselors are informed of the availability of the program and the application procedures~~.

b. A young adult must apply for the initial award during the 6 months immediately preceding his or her 18th birthday, and

the department shall provide assistance with the application process. A young adult who fails to make an initial application, but who otherwise meets the criteria for an initial award, may make one application for the initial award if the application is made before the young adult's 21st birthday. If the young adult does not apply for an initial award before his or her 18th birthday, the department shall inform that young adult of the opportunity to apply before turning 21 years of age.

c. ~~If funding for the program is available,~~ The department shall issue awards from the ~~scholarship~~ program for each young adult who meets all the requirements of the program to the extent funding is available.

d. An award shall be issued at the time the eligible student reaches 18 years of age.

e. A young adult who is eligible for the Road-to-Independence Program, transitional support services, or aftercare services and who so desires shall be allowed to reside with the licensed foster family or group care provider with whom he or she was residing at the time of attaining his or her 18th birthday or to reside in another licensed foster home or with a group care provider arranged by the department.

f. If the award recipient transfers from one eligible institution to another and continues to meet eligibility requirements, the award must be transferred with the recipient.

g. ~~Scholarship~~ Funds awarded to any eligible young adult under this program are in addition to any other services or funds provided to the young adult by the department through

transitional support services or aftercare services ~~its independent living transition services~~.

h. The department shall provide information concerning young adults receiving funding through the Road-to-Independence Program ~~Scholarship~~ to the Department of Education for inclusion in the student financial assistance database, as provided in s. 1009.94.

i. ~~Scholarship~~ Funds are intended to help eligible young adults ~~students~~ who are former foster children in this state to receive the educational and vocational training needed to become independent and self-supporting. The funds shall be terminated when the young adult has attained one of four postsecondary goals under subsection (3) or reaches 23 years of age, whichever occurs earlier. In order to initiate postsecondary education, to allow for a change in career goal, or to obtain additional skills in the same educational or vocational area, a young adult may earn no more than two diplomas, certificates, or credentials. A young adult attaining an associate of arts or associate of science degree shall be permitted to work toward completion of a bachelor of arts or a bachelor of science degree or an equivalent undergraduate degree. Road-to-Independence Program ~~Scholarship~~ funds may not be used for education or training after a young adult has attained a bachelor of arts or a bachelor of science degree or an equivalent undergraduate degree.

j. The department shall evaluate and renew each award annually during the 90-day period before the young adult's

birthday. In order to be eligible for a renewal award for the subsequent year, the young adult must:

(I) Complete the number of hours, or the equivalent considered full time by the educational institution, unless that young adult has a recognized disability preventing full-time attendance, in the last academic year in which the young adult earned an award ~~a scholarship~~, except for a young adult who meets the requirements of s. 1009.41.

(II) Maintain appropriate progress as required by the educational institution, except that, if the young adult's progress is insufficient to renew the award ~~scholarship~~ at any time during the eligibility period, the young adult may restore eligibility by improving his or her progress to the required level.

k. ~~Scholarship~~ Funds may be terminated during the interim between an award and the evaluation for a renewal award if the department determines that the award recipient is no longer enrolled in an educational institution as defined in sub-subparagraph 2.d., or is no longer a state resident. The department shall notify a recipient ~~student~~ who is terminated and inform the recipient ~~student~~ of his or her right to appeal.

l. An award recipient who does not qualify for a renewal award or who chooses not to renew the award may subsequently apply for reinstatement. An application for reinstatement must be made before the young adult reaches 21 ~~23~~ years of age, and a student may not apply for reinstatement more than once. In order to be eligible for reinstatement, the young adult must meet the

eligibility criteria and the criteria for award renewal for the ~~scholarship~~ program.

(c) Transitional support services.--

1. In addition to any services provided through aftercare support or the Road-to-Independence Program ~~Scholarship~~, a young adult formerly in foster care may receive other appropriate short-term funding and services, which may include financial, housing, counseling, employment, education, mental health, disability, and other services, if the young adult demonstrates that the services are critical to the young adult's own efforts to achieve self-sufficiency and to develop a personal support system. The department or community-based care provider shall work with the young adult in developing a joint transition plan that is consistent with a needs assessment identifying the specific need for transitional services to support the young adult's own efforts. The young adult must have specific tasks to complete or maintain included in the plan and be accountable for the completion of or making progress towards the completion of these tasks. If the young adult and the department or community-based care provider cannot come to agreement regarding any part of the plan, the young adult may access a grievance process to its full extent in an effort to resolve the disagreement.

2. A young adult formerly in foster care is eligible to apply for transitional support services if he or she has reached 18 years of age but is not yet 23 years of age, was a dependent child pursuant to chapter 39, was living in licensed foster care or in subsidized independent living at the time of his or her

18th birthday, and had spent at least 6 months living in foster care before that date.

3. If at any time the services are no longer critical to the young adult's own efforts to achieve self-sufficiency and to develop a personal support system, they shall be terminated.

(d) Payment of aftercare, Road-to-Independence Program ~~scholarship~~, or transitional support funds.--

1. Payment of aftercare, Road-to-Independence Program ~~scholarship~~, or transitional support funds shall be made directly to the recipient unless the recipient requests in writing to the community-based care lead agency, or the department, that the payments or a portion of the payments be made directly on the recipient's behalf in order to secure services such as housing, counseling, education, or employment training as part of the young adult's own efforts to achieve self-sufficiency.

2. After the completion of aftercare support services that satisfy the requirements of sub-subparagraph (a)1.h., payment of awards under the Road-to-Independence Program shall be made by direct deposit to the recipient, unless the recipient requests in writing to the community-based care lead agency or the department that:

a. The payments be made directly to the recipient by check or warrant;

b. The payments or a portion of the payments be made directly on the recipient's behalf to institutions the recipient is attending to maintain eligibility under this section; or

c. The payments be made on a two-party check to a business or landlord for a legitimate expense, whether reimbursed or not. A legitimate expense for the purposes of this sub-subparagraph shall include automobile repair or maintenance expenses; educational, job, or training expenses; and costs incurred, except legal costs, fines, or penalties, when applying for or executing a rental agreement for the purposes of securing a home or residence.

3. The community-based care lead agency may purchase housing, transportation, or employment services to ensure the availability and affordability of specific transitional services thereby allowing an eligible young adult to utilize these services in lieu of receiving a direct payment. Prior to purchasing such services, the community-based care lead agency must have a plan approved by the department describing the services to be purchased, the rationale for purchasing the services, and a specific range of expenses for each service that is less than the cost of purchasing the service by an individual young adult. The plan must include a description of the transition of a young adult using these services into independence and a timeframe for achievement of independence. An eligible young adult who can demonstrate an ability to obtain these services independently and prefers a direct payment shall receive such payment. The plan must be reviewed annually and evaluated for cost-efficiency and for effectiveness in assisting young adults in achieving independence, preventing homelessness among young adults, and enabling young adults to earn a livable wage in a permanent employment situation.

4. The young adult who resides with a foster family may not be included as a child in calculating any licensing restriction on the number of children in the foster home.

(e) Appeals process.--

1. The Department of Children and Family Services shall adopt by rule a procedure by which a young adult may appeal an eligibility determination or the department's failure to provide aftercare, Road-to-Independence Program ~~scholarship~~, or transitional support services, or the termination of such services, if such funds are available.

2. The procedure developed by the department must be readily available to young adults, must provide timely decisions, and must provide for an appeal to the Secretary of Children and Family Services. The decision of the secretary constitutes final agency action and is reviewable by the court as provided in s. 120.68.

(6) ACCOUNTABILITY.--The department shall develop outcome measures for the program and other performance measures.

(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.--The Secretary of Children and Family Services shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the independent living transition services. This advisory council shall continue to function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the independent living transition services.

(a) Specifically, the advisory council shall assess the implementation and operation of the system of independent living transition services and advise the department on actions that would improve the ability of the independent living transition services to meet the established goals. The advisory council shall keep the department informed of problems being experienced with the services, barriers to the effective and efficient integration of services and support across systems, and successes that the system of independent living transition services has achieved. The department shall consider, but is not required to implement, the recommendations of the advisory council.

(b) The advisory council shall report to the appropriate substantive committees of the Senate and the House of Representatives on the status of the implementation of the system of independent living transition services; efforts to publicize the availability of aftercare support services, the Road-to-Independence ~~Scholarship~~ Program, and transitional support services; ~~specific barriers to financial aid created by the scholarship and possible solutions;~~ the success of the services; problems identified; recommendations for department or legislative action; and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the Senate and the House substantive committees December 31, 2002. This advisory council report shall be submitted by December 31 of each year that the council is in existence and shall be accompanied by a report from the department which identifies the recommendations

of the advisory council and either describes the department's actions to implement these recommendations or provides the department's rationale for not implementing the recommendations.

(c) Members of the advisory council shall be appointed by the secretary of the department. The membership of the advisory council must include, at a minimum, representatives from the headquarters and district offices of the Department of Children and Family Services, community-based care lead agencies, the Agency for Workforce Innovation, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, Workforce Florida, Inc., the Statewide Guardian Ad Litem Office, foster parents, recipients of Road-to-Independence Program funding, and advocates for foster children. The secretary shall determine the length of the term to be served by each member appointed to the advisory council, which may not exceed 4 years.

(d) The Department of Children and Family Services shall provide administrative support to the Independent Living Services Advisory Council to accomplish its assigned tasks. The advisory council shall be afforded access to all appropriate data from the department, each community-based care lead agency, and other relevant agencies in order to accomplish the tasks set forth in this section. The data collected may not include any information that would identify a specific child or young adult.

(8) PERSONAL PROPERTY.--Property acquired on behalf of clients of this program shall become the personal property of the clients and is not subject to the requirements of chapter

273 relating to state-owned tangible personal property. Such property continues to be subject to applicable federal laws.

(9) MEDICAL ASSISTANCE FOR YOUNG ADULTS FORMERLY IN FOSTER CARE.--The department shall enroll in the Florida KidCare program, outside the open enrollment period, each young adult who is eligible as described in paragraph (2)(b) and who has not yet reached his or her 20th ~~19th~~ birthday.

(a) A young adult who was formerly in foster care at the time of his or her 18th birthday and who is 18 years of age but not yet 20 ~~19,~~ shall pay the premium for the Florida KidCare program as required in s. 409.814.

(b) A young adult who has health insurance coverage from a third party through his or her employer or who is eligible for Medicaid is not eligible for enrollment under this subsection.

(10) RULEMAKING.--The department shall adopt by rule procedures to administer this section, including balancing the goals of normalcy and safety for the youth and providing the caregivers with as much flexibility as possible to enable the youth to participate in normal life experiences. The department shall not adopt rules relating to reductions in ~~scholarship~~ awards. The department shall engage in appropriate planning to prevent, to the extent possible, a reduction in ~~scholarship~~ awards after issuance.

Section 10. Paragraph (b) of subsection (2) of section 409.175, Florida Statutes, is amended to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.--

(2) As used in this section, the term:

(b) "Boarding school" means a school which is accredited by the Florida Council of Independent Schools or the Southern Association of Colleges and Schools; which is accredited by the Council on Accreditation, the Commission on Accreditation of Rehabilitation Facilities, or the Coalition for Residential Education; and which is registered with the Department of Education as a school. Its program must follow established school schedules, with holiday breaks and summer recesses in accordance with other public and private school programs. The children in residence must customarily return to their family homes or legal guardians during school breaks and must not be in residence year-round, except that this provision does not apply to foreign students. The parents of these children retain custody and planning and financial responsibility. A boarding school currently in existence and a boarding school opening and seeking accreditation has 3 years to comply with the requirements of this paragraph. A boarding school must provide proof of accreditation or documentation of the accreditation process upon request. A boarding school that cannot produce the required documentation or that has not registered with the Department of Education shall be considered to be providing residential group care without a license. The department may impose administrative sanctions or seek civil remedies as provided under paragraph (11)(a).

Section 11. Subsection (2) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel.--

(2) The circuit court shall have exclusive original jurisdiction of all proceedings under this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of children whose parental rights have been terminated under this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or some other person, or was in the physical or legal custody of no person when the event or condition occurred that brought the child to the attention of the court. When the court obtains jurisdiction of any child who has been found to be dependent, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age. However, if a youth petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the juvenile court may retain jurisdiction under this chapter for a period not to exceed 1 year following the youth's 18th birthday for the purpose of determining whether appropriate aftercare support, Road-to-Independence Program ~~Scholarship~~, transitional support, mental health, and developmental disability services, to the extent otherwise authorized by law, have been provided to the formerly dependent child who was in the legal custody of the department immediately before his or her 18th birthday. If a

petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday.

Section 12. Paragraph (a) of subsection (6) of section 39.701, Florida Statutes, is amended to read:

39.701 Judicial review.--

(6)(a) In addition to paragraphs (1)(a) and (2)(a), the court shall hold a judicial review hearing within 90 days after a youth's 17th birthday and shall continue to hold timely judicial review hearings. In addition, the court may review the status of the child more frequently during the year prior to the youth's 18th birthday if necessary. At each review held under this subsection, in addition to any information or report provided to the court, the foster parent, legal custodian, guardian ad litem, and the child shall be given the opportunity to address the court with any information relevant to the child's best interests, particularly as it relates to

independent living transition services. In addition to any information or report provided to the court, the department shall include in its judicial review social study report written verification that the child:

1. Has been provided with a current Medicaid card and has been provided all necessary information concerning the Medicaid program sufficient to prepare the youth to apply for coverage upon reaching age 18, if such application would be appropriate.

2. Has been provided with a certified copy of his or her birth certificate and, if the child does not have a valid driver's license, a Florida identification card issued under s. 322.051.

3. Has been provided information relating to Social Security Insurance benefits if the child is eligible for these benefits. If the child has received these benefits and they are being held in trust for the child, a full accounting of those funds must be provided and the child must be informed about how to access those funds.

4. Has been provided with information and training related to budgeting skills, interviewing skills, and parenting skills.

5. Has been provided with all relevant information related to the Road-to-Independence Program ~~Scholarship~~, including, but not limited to, eligibility requirements, forms necessary to apply, and assistance in completing the forms. The child shall also be informed that, if he or she is eligible for the Road-to-Independence ~~Scholarship~~ Program, he or she may reside with the licensed foster family or group care provider with whom the child was residing at the time of attaining his or her 18th

birthday or may reside in another licensed foster home or with a group care provider arranged by the department.

6. Has an open bank account, or has identification necessary to open an account, and has been provided with essential banking skills.

7. Has been provided with information on public assistance and how to apply.

8. Has been provided a clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and what educational program or school he or she will be enrolled in.

9. Has been provided with notice of the youth's right to petition for the court's continuing jurisdiction for 1 year after the youth's 18th birthday as specified in s. 39.013(2) and with information on how to obtain access to the court.

10. Has been encouraged to attend all judicial review hearings occurring after his or her 17th birthday.

Section 13. Paragraph (c) of subsection (2) of section 1009.25, Florida Statutes, is amended to read:

1009.25 Fee exemptions.--

(2) The following students are exempt from the payment of tuition and fees, including lab fees, at a school district that provides postsecondary career programs, community college, or state university:

(c) A student who ~~the state has determined is eligible for the Road-to-Independence Scholarship, regardless of whether an award is issued or not, or a student who~~ is or was at the time he or she reached 18 years of age in the custody of the

Department of Children and Family Services or a relative under s. 39.5085, ~~or~~ who is adopted from the Department of Children and Family Services after May 5, 1997, or who, after spending at least 6 months in the custody of the department after reaching 16 years of age, was placed in a guardianship by the court. Such exemption includes fees associated with enrollment in career-preparatory instruction and completion of the college-level communication and computation skills testing program. Such an exemption is available to any student who was in the custody of a relative under s. 39.5085 at the time he or she reached 18 years of age or was adopted from the Department of Children and Family Services after May 5, 1997; however, the exemption remains valid for no more than 4 years after the date of graduation from high school.

Section 14. This act shall take effect July 1, 2006, only if a specific appropriation to fund the provisions of this act is made in the General Appropriations Act for fiscal year 2006-2007.

Strike all Amendment to HB 7173 CS (Welfare of Children) by Rep. Galvano

HB 7173 CS establishes a centralized office to examine, oversee, and implement abuse prevention services by creating the Office of Child Abuse Prevention within the Executive Office of the Governor.

The bill strengthens the ability of Statewide and Local Advocacy Councils (SAC) to monitor, investigate, and resolve claims of abuse and neglect. Requires a written protocol for all complaints generated by the statewide council. Defines the clients of the council as the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Department of Children and Family Services, and the Department of Elder Affairs.

The bill also addresses the welfare of young adults aging out of the foster care system by expanding the Medicaid eligibility criteria to include 18 and 19 year old young adults. Requires DCF to maintain oversight of the program and report on the outcome measures to the Legislature.

The bill makes public school employees subject to the reporting requirements of chapter 39, F.S., for purposes of making reports of alleged abuse to the central abuse hotline.

Because of an exemption from regulation by both the Department of Children and Family Services and the Department of Education, the bill requires boarding schools to be accredited by the Florida Council of Independent Schools or the Southern Association of Colleges and Schools.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 7173 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Health and Families Council Representative(s) Galvano) offers the following amendment:

Amendment (with Title Amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (1) and (6) of section 39.001, Florida Statutes, are amended, subsections (7) and (8) are renumbered as subsections (8) and (9) and amended, present subsection (9) is renumbered as subsection (10), and new subsections (7), (11), and (12) are added to that section, to read:

39.001 Purposes and intent; personnel standards and screening.--

(1) PURPOSES OF CHAPTER.--The purposes of this chapter are:

(a) To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; ~~and~~ to promote the health and well-being of all children under the state's care; and to prevent the occurrence of child abuse, neglect, and abandonment.

(b) To recognize that most families desire to be competent caregivers and providers for their children and that children achieve their greatest potential when families are able to support and nurture the growth and development of their children. Therefore, the Legislature finds that policies and procedures that provide for prevention and intervention through the department's child protection system should be based on the following principles:

1. The health and safety of the children served shall be of paramount concern.

2. The prevention and intervention should engage families in constructive, supportive, and nonadversarial relationships.

3. The prevention and intervention should intrude as little as possible into the life of the family, be focused on clearly defined objectives, and take the most parsimonious path to remedy a family's problems.

4. The prevention and intervention should be based upon outcome evaluation results that demonstrate success in protecting children and supporting families.

(c) To provide a child protection system that reflects a partnership between the department, other agencies, and local communities.

(d) To provide a child protection system that is sensitive to the social and cultural diversity of the state.

(e) To provide procedures which allow the department to respond to reports of child abuse, abandonment, or neglect in the most efficient and effective manner that ensures the health and safety of children and the integrity of families.

(f) To preserve and strengthen the child's family ties whenever possible, removing the child from parental custody only

when his or her welfare cannot be adequately safeguarded without such removal.

(g) To ensure that the parent or legal custodian from whose custody the child has been taken assists the department to the fullest extent possible in locating relatives suitable to serve as caregivers for the child.

(h) To ensure that permanent placement with the biological or adoptive family is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year.

(i) To secure for the child, when removal of the child from his or her own family is necessary, custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to ensure, in all cases in which a child must be removed from parental custody, that the child is placed in an approved relative home, licensed foster home, adoptive home, or independent living program that provides the most stable and potentially permanent living arrangement for the child, as determined by the court. All placements shall be in a safe environment where drugs and alcohol are not abused.

(j) To ensure that, when reunification or adoption is not possible, the child will be prepared for alternative permanency goals or placements, to include, but not be limited to, long-term foster care, independent living, custody to a relative on a permanent basis with or without legal guardianship, or custody to a foster parent or legal custodian on a permanent basis with or without legal guardianship.

(k) To make every possible effort, when two or more children who are in the care or under the supervision of the department are siblings, to place the siblings in the same home; and in the event of permanent placement of the siblings, to

place them in the same adoptive home or, if the siblings are separated, to keep them in contact with each other.

(l) To provide judicial and other procedures to assure due process through which children, parents, and guardians and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.

(m) To ensure that children under the jurisdiction of the courts are provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.

(n) To create and maintain an integrated prevention framework that enables local communities, state agencies, and organizations to collaborate to implement efficient and properly applied evidence-based child abuse prevention practices.

(6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE, ABANDONMENT, AND NEGLECT OF CHILDREN.--The incidence of known child abuse, abandonment, and neglect has increased rapidly over the past 5 years. The impact that abuse, abandonment, or neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse, abandonment, and neglect shall be a priority of this state. To further this end, it is the intent of the Legislature that an Office of Child Abuse Prevention be established ~~a comprehensive~~

~~approach for the prevention of abuse, abandonment, and neglect of children be developed for the state and that this planned, comprehensive approach be used as a basis for funding~~.

(7) OFFICE OF CHILD ABUSE PREVENTION.--

(a) For purposes of establishing a comprehensive statewide approach for the prevention of child abuse, abandonment, and neglect, the Office of Child Abuse Prevention is created within the Executive Office of the Governor. The Governor shall appoint a director for the office who shall be subject to confirmation by the Senate.

(b) The director shall:

1. Assist in developing rules pertaining to implementation of child abuse prevention efforts.

2. Act as the Governor's liaison with state agencies, other state governments, and the public and private sectors on matters that relate to child abuse prevention.

3. Work to secure funding and other support for the state's child abuse prevention efforts, including, but not limited to, establishing cooperative relationships among state and private agencies.

4. Develop a strategic program and funding initiative that links the separate jurisdictional activities of state agencies with respect to child abuse prevention. The office may designate lead and contributing agencies to develop such initiatives.

5. Advise the Governor and the Legislature on child abuse trends in this state, the status of current child abuse prevention programs and services, the funding of those programs and services, and the status of the office with regard to the development and implementation of the state child abuse prevention strategy.

6. Develop child abuse prevention public awareness campaigns to be implemented throughout the state.

(c) The office is authorized and directed to:

1. Oversee the preparation and implementation of the state plan established under subsection (8) and revise and update the state plan as necessary.

2. Provide for, or make available continuing professional education and training in the prevention of child abuse and neglect.

3. Work to secure funding in the form of appropriations, gifts, and grants from the state, the Federal Government, and other public and private sources in order to ensure that sufficient funds are available for prevention efforts.

4. Make recommendations pertaining to agreements or contracts for the establishment and development of:

a. Programs and services for the prevention of child abuse and neglect.

b. Training programs for the prevention of child abuse and neglect.

c. Multidisciplinary and discipline-specific training programs for professionals with responsibilities affecting children, young adults, and families.

5. Monitor, evaluate, and review the development and quality of local and statewide services and programs for the prevention of child abuse and neglect and shall publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President of the Senate, the secretary of each state agency affected by the report, and the appropriate substantive committees of the Legislature. The report shall include:

a. A summary of the activities of the office.

b. A summary detailing the demographic and geographic characteristics of families served by the prevention programs.

c. Recommendations, by state agency, for the further development and improvement of services and programs for the prevention of child abuse and neglect.

d. The budget requests and prevention program needs by state agency.

(8) ~~(7)~~ PLAN FOR COMPREHENSIVE APPROACH.--

(a) The office ~~department~~ shall develop a state plan for the prevention of abuse, abandonment, and neglect of children and shall submit the state plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than December 31, 2007 ~~January 1, 1983~~. The Department of Children and Family Services, the Department of Corrections, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, the Agency for Persons with Disabilities, and the Agency for Workforce Innovation ~~The Department of Education and the Division of Children's Medical Services Prevention and Intervention of the Department of Health~~ shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the school boards of the local school districts; the Florida local advocacy councils; community-based care lead agencies; private or public organizations or programs with recognized expertise in

working with child abuse prevention programs for children and families; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies;~~,~~ and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

(b) The development of the ~~comprehensive~~ state plan shall be accomplished in the following manner:

1. The office shall establish a Child Abuse Prevention Advisory Council composed of representatives from each state agency and appropriate local agencies and organizations specified in paragraph (a). The advisory council shall serve as the research arm of the office and ~~The department shall establish an interprogram task force comprised of the Program Director for Family Safety, or a designee, a representative from the Child Care Services Program Office, a representative from the Family Safety Program Office, a representative from the Mental Health Program Office, a representative from the Substance Abuse Program Office, a representative from the Developmental Disabilities Program Office, and a representative from the Division of Children's Medical Services Prevention and Intervention of the Department of Health. Representatives of the Department of Law Enforcement and of the Department of Education~~

~~shall serve as ex officio members of the interprogram task force. The interprogram task force~~ shall be responsible for:

a. Assisting in developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse, abandonment, and neglect conducted by the office ~~department~~ in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.

b. Assisting in providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.

c. Providing the districts with technical assistance in the development of local plans of action, if requested.

d. Assisting in examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and requesting the additional information needed.

e. Assisting in preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the incorporation into the state plan ~~collapsing~~ of information obtained from the local plans, the cooperative plans with the members of the advisory council ~~Department of Education~~, and the plan of action for coordination and integration of state departmental activities ~~into one comprehensive plan~~. The state ~~comprehensive~~ plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the state plan shall provide an analysis and summary of each element of the local

plans to provide a statewide perspective. The state plan shall also include each separate local plan of action.

f. Conducting a feasibility study on the establishment of a Children's Cabinet.

g.~~f.~~ Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.

2. The office, the department, the Department of Education, and the Department of Health shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.

3. The office, the department, the Department of Law Enforcement, and the Department of Health shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect.

4. Within existing appropriations, the office ~~department~~ shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect. The plan for accomplishing this end shall be included in the state plan.

5. The office, the department, the Department of Education, and the Department of Health shall work together on

the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse, abandonment, and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progressional levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the ~~comprehensive~~ state plan for the prevention of child abuse, abandonment, and neglect.

6. Each district of the department shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the advisory council ~~interprogram task force~~ for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in this paragraph ~~(a)~~, as well as representatives from those departmental district offices participating in the treatment and prevention of child abuse, abandonment, and neglect. In order to accomplish this, the office ~~district administrator in each district~~ shall establish a task force on the prevention of child abuse, abandonment, and neglect. The office ~~district administrator~~ shall appoint the members of the task force in accordance with the membership requirements of this section. The office ~~In addition, the district administrator shall ensure that each subdistrict is represented on the task force; and, if the district does not have subdistricts, the district administrator~~ shall ensure that both urban and rural areas are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall

responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child abandonment and neglect in its geographical area.

b. A description of programs currently serving abused, abandoned, and neglected children and their families and a description of programs for the prevention of child abuse, abandonment, and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.

c. A continuum of programs and services necessary for a comprehensive approach to the prevention of all types of child abuse, abandonment, and neglect as well as a brief description of such programs and services.

d. A description, documentation, and priority ranking of local needs related to child abuse, abandonment, and neglect prevention based upon the continuum of programs and services.

e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.

f. A description of barriers to the accomplishment of a comprehensive approach to the prevention of child abuse, abandonment, and neglect.

g. Recommendations for changes that can be accomplished only at the state program level or by legislative action.

(9) ~~(8)~~ FUNDING AND SUBSEQUENT PLANS.--

(a) All budget requests submitted by the office, the department, the Department of Health, the Department of Education, the Department of Juvenile Justice, the Department of Corrections, the Agency for Persons with Disabilities, the Agency for Workforce Innovation, or any other agency to the Legislature for funding of efforts for the prevention of child abuse, abandonment, and neglect shall be based on the state plan developed pursuant to this section.

(b) The office ~~department at the state and district levels~~ and the other agencies and organizations listed in paragraph (8)(a) ~~(7)(a)~~ shall readdress the state plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. At least biennially, the office shall review the state plan and make any necessary revisions based on changing needs and program evaluation results. An annual progress report shall be submitted to update the state plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the prevention of child abuse, abandonment, and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

(11) RULEMAKING.--The Executive Office of the Governor shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(12) EVALUATION.--By February 1, 2009, the Legislature shall evaluate the office and determine whether it should continue to be housed in the Executive Office of the Governor or transferred to a state agency.

Section 2. Section 39.0014, Florida Statutes, is amended to read:

39.0014 Responsibilities of public agencies.--All state, county, and local agencies shall cooperate, assist, and provide information to the Office of Child Abuse Prevention and the department as will enable them ~~it~~ to fulfill their ~~its~~ responsibilities under this chapter.

Section 3. Paragraph (b) of subsection (3) of section 39.0015, Florida Statutes, is amended to read:

39.0015 Child abuse prevention training in the district school system.--

(3) DEFINITIONS.--As used in this section:

(b) "Child abuse" means those acts as defined in ss. 39.01(1), (2), (30), (43), (45), (53) ~~(52)~~, and (64) ~~(63)~~, 827.04, and 984.03(1), (2), and (37).

Section 4. Subsections (47) through (72) of section 39.01, Florida Statutes, are renumbered as subsections (48) through (73), present subsections (10) and (47) are amended, and a new subsection (47) is added to that section, to read:

39.01 Definitions.--When used in this chapter, unless the context otherwise requires:

(10) "Caregiver" means the parent, legal custodian, adult household member, or other person responsible for a child's welfare as defined in subsection (48) ~~(47)~~.

(47) "Office" means the Office of Child Abuse Prevention within the Executive Office of the Governor.

(48) ~~(47)~~ "Other person responsible for a child's welfare" includes the child's legal guardian, legal custodian, or foster parent; an employee of any ~~a private~~ school, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include law enforcement officers, or employees of municipal or county detention facilities or the Department of Corrections, while acting in an official capacity.

Section 5. Paragraph (a) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.--

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, or county agencies responsible for carrying out:

1. Child or adult protective investigations;

2. Ongoing child or adult protective services;

3. Early intervention and prevention services;

4. ~~3.~~ Healthy Start services; ~~or~~

5. ~~4.~~ Licensure or approval of adoptive homes, foster homes, or child care facilities, or family day care homes or informal child care providers who receive subsidized child care funding, or other homes used to provide for the care and welfare of children; or~~.~~

6.~~5.~~ Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

Section 6. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.--

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(31) or (48)~~(47)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established by the central abuse hotline pursuant to s. 39.201(5) and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations onsite or having face-to-face interviews with the child, such investigation visits shall be unannounced unless it is determined by the department or its agent that such unannounced visits would threaten the safety of the child. When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation shall be entitled to full access to the

information gathered by the department in the course of the investigation. A protective investigation must include an onsite visit of the child's place of residence. In all cases, the department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 7. Subsections (1) and (2) of section 402.164, Florida Statutes, are amended to read:

402.164 Legislative intent; definitions.--

(1)(a) It is the intent of the Legislature to use citizen volunteers as members of the Florida Statewide Advocacy Council and the Florida local advocacy councils, and to have volunteers operate a network of councils that shall, without interference by an executive agency, undertake to discover, monitor, investigate, and determine the presence of conditions or individuals that constitute a threat to the rights, health, safety, or welfare of persons who receive services from state agencies.

(b) It is the further intent of the Legislature that the monitoring and investigation shall safeguard the health, safety, and welfare of consumers of services provided by these state agencies.

(c) It is the further intent of the Legislature that state agencies cooperate with the councils in forming interagency agreements to provide the councils with authorized client records so that the councils may monitor services and investigate claims.

(2) As used in ss. 402.164-402.167, the term:

(b) "Client" means a client of the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Department of Children and Family Services, and the Department of Elder Affairs, as defined in s. 393.063, s. 394.67, s. 397.311, or s. 400.960, a forensic client or client as defined in s. 916.106, a child or youth as defined in s. 39.01, a child as defined in s. 414.0252, a participant as defined in s. 400.551, a resident as defined in s. 400.402, a Medicaid recipient or recipient as defined in s. 409.901, a child receiving child care as defined in s. 402.302, a disabled adult as defined in s. 410.032 or 410.603, or a victim as defined in s. 39.01 or s. 415.102 as each definition applies within its respective chapter.

Section 8. Subsections (2), (5), and (7) of section 402.165, Florida Statutes, and paragraph (a) of subsection (8) of said section, are amended to read:

402.165 Florida Statewide Advocacy Council; confidential records and meetings.--

(2) Members of the statewide council shall be appointed to serve terms of 4 years, subject to termination at the pleasure of the Governor prior to expiration of such period. A member may not serve more than two full consecutive terms.

(5)(a) Members of the statewide council shall receive no compensation, but are entitled to be reimbursed for per diem and travel expenses in accordance with s. 112.061.

(b) The Governor shall select an executive director who shall serve at the pleasure of the Governor and shall perform the duties delegated to him or her by the council. The compensation of the executive director and staff shall be established in accordance with the rules of the Selected Exempt Service. The Governor shall give priority consideration in the selection of an executive director to an individual with professional expertise in research design, statistical analysis, or agency evaluation and analysis.

(c) The council may apply for, receive, and accept grants, gifts, donations, bequests, and other payments including money or property, real or personal, tangible or intangible, and service from any governmental or other public or private entity or person and make arrangements as to the use of same.

(d) The statewide council shall annually prepare a budget request that, after it is approved by the council, shall be submitted to the Governor. The budget shall include a request for funds to carry out the activities of the statewide council and the local councils.

(7) The responsibilities of the statewide council include, but are not limited to:

(a) Serving as an independent third-party mechanism for protecting the constitutional and human rights of clients within programs or facilities operated, funded, or contracted by any state agency that provides client services.

(b) Monitoring, by site visit and through access to records, the delivery and use of services, programs, or facilities operated, funded, or contracted by any state agency that provides client services, for the purpose of preventing abuse or deprivation of the constitutional and human rights of clients. The statewide council may conduct an unannounced site

visit or monitoring visit that involves the inspection of records if the visit is conditioned upon a complaint. A complaint may be generated by the council itself, after consulting with the Governor's office, if information from any state agency that provides client services or from other sources indicates a situation at the program or facility that indicates possible abuse or neglect or deprivation of the constitutional and human rights of clients. The statewide council shall establish and follow uniform criteria for the review of information and generation of complaints. The statewide council shall develop a written protocol for all complaints it generates to provide the Governor's office with information including the nature of the abuse or neglect, the agencies involved, the populations or numbers of individuals affected, the types of records necessary to complete the investigation, and a strategy for approaching the problem. Routine program monitoring and reviews that do not require an examination of records may be made unannounced.

(c) Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights referred to the statewide council by a local council. If a matter constitutes a threat to the life, safety, or health of clients or is multiservice-area in scope, the statewide council may exercise its powers without the necessity of a referral from a local council.

(d) Reviewing existing programs or services and new or revised programs of the state agencies that provide client services and making recommendations as to how the rights of clients are affected.

(e) Submitting an annual report to the Legislature, no later than December 30 of each calendar year, concerning

activities, recommendations, and complaints reviewed or developed by the council during the year.

(f) Conducting meetings at least one time ~~six times~~ a year at the call of the chair and at other times at the call of the Governor or by written request of eight ~~six~~ members of the council including the executive director.

(g) Developing and adopting uniform procedures to be used to carry out the purpose and responsibilities of the statewide council and the local councils.

(h) Supervising the operations of the local councils and monitoring the performance and activities of all local councils and providing technical assistance to members of local councils.

(i) Providing for the development and presentation of a standardized training program for members of local councils.

(j) Developing and maintaining interagency agreements between the council and the state agencies providing client services. The interagency agreements shall address the coordination of efforts and identify the roles and responsibilities of the statewide and local councils and each agency in fulfillment of their responsibilities, including access to records. The interagency agreements shall explicitly define a process that the statewide and local councils shall use to request records from the agency and shall define a process for appeal when disputes about access to records arise between agency staff and council members. Interagency agreements shall be renewed annually and shall be completed and reported to the Governor no later than February 1.

(8)(a) In the performance of its duties, the statewide council shall have:

1. Authority to receive, investigate, seek to conciliate, hold hearings on, and act on complaints that allege any abuse or

deprivation of constitutional or human rights of persons who receive client services from any state agency.

2. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, or contracted by any state agency that provides client services and any records that are material to its investigation and are in the custody of any other agency or department of government. The council's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement agencies or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation that supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside the state agency, or outside a state facility, and whose client is competent and refuses disclosure.

3. Standing to petition the circuit court for access to client records that are confidential as specified by law. The petition shall <u>be filed with notice and opportunity to be heard by the state agency and shall</u> state the specific reasons for which the council is seeking access and the intended use of such information. The circuit court may authorize council access to the records upon a finding that access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, agency records, and reports may not be removed from a state agency, but copies must be provided to the council and the local councils at the agency's expense. Under no circumstance shall the council have access to confidential adoption records once the adoption is finalized by a court in accordance with ss. 39.0132, 63.022, and 63.162. Upon completion

of a general investigation of practices and procedures of a state agency, the statewide council shall report its findings to that agency.

Section 9. Section 409.1451, Florida Statutes, is amended to read:

409.1451 Independent living transition services.--

(1) SYSTEM OF SERVICES.--

(a) The Department of Children and Family Services, its agents, or community-based providers operating pursuant to s. 409.1671 shall administer a system of independent living transition services to enable older children in foster care and young adults who exit foster care at age 18 to make the transition to self-sufficiency as adults.

(b) The goals of independent living transition services are to assist older children in foster care and young adults who were formerly in foster care to obtain life skills and education for independent living and employment, to have a quality of life appropriate for their age, and to assume personal responsibility for becoming self-sufficient adults.

(c) State funds for foster care or federal funds shall be used to establish a continuum of services for eligible children in foster care and eligible young adults who were formerly in foster care which accomplish the goals for the system of independent living transition services by providing services for foster children, pursuant to subsection (4), and services for young adults who were formerly in foster care, pursuant to subsection (5).

(d) For children in foster care, independent living transition services are not an alternative to adoption. Independent living transition services may occur concurrently

with continued efforts to locate and achieve placement in adoptive families for older children in foster care.

(2) ELIGIBILITY.--

(a) The department shall serve children who have reached 13 years of age but are not yet 18 years of age and who are in foster care by providing services pursuant to subsection (4). Children to be served must meet the eligibility requirements set forth for specific services as provided in this section.

(b) The department shall serve young adults who have reached 18 years of age or were placed with a court-approved nonrelative or guardian after reaching 16 years of age and have spent a minimum of 6 months in foster care ~~but are not yet 23 years of age and who were in foster care when they turned 18 years of age~~ by providing services pursuant to subsection (5). Young adults are not entitled to be served but must meet the eligibility requirements set forth for specific services in this section.

(3) PREPARATION FOR INDEPENDENT LIVING.--

(a) It is the intent of the Legislature for the Department of Children and Family Services to assist older children in foster care and young adults who exit foster care at age 18 in making the transition to independent living and self-sufficiency as adults. The department shall provide such children and young adults with opportunities to participate in life skills activities in their foster families and communities which are reasonable and appropriate for their respective ages or for any special needs they may have~~,~~ and shall provide them with services to build life ~~the~~ skills and increase their ability to live independently and become self-sufficient. To support the provision of opportunities for participation in age-appropriate life skills activities, the department shall:

1. Develop a list of age-appropriate activities and responsibilities to be offered to all children involved in independent living transition services and their foster parents.

2. Provide training for staff and foster parents to address the issues of older children in foster care in transitioning to adulthood, which shall include information on high school completion, grant applications, vocational school opportunities, supporting education and employment opportunities, and ~~providing~~ opportunities to participate in appropriate daily activities.

3. Develop procedures to maximize the authority of foster parents or caregivers to approve participation in age-appropriate activities of children in their care. The age-appropriate activities and the authority of the foster parent or caregiver shall be developed into a written plan that the foster parent or caregiver, the child, and the case manager all develop together, sign, and follow. This plan must include specific goals and objectives and be reviewed and updated no less than quarterly.

4. Provide opportunities for older children in foster care to interact with mentors.

5. Develop and implement procedures for older children to directly access and manage the personal allowance they receive from the department in order to learn responsibility and participate in age-appropriate life skills activities to the extent feasible.

6. Make a good faith effort to fully explain, prior to execution of any signature, if required, any document, report, form, or other record, whether written or electronic, presented to a child or young adult pursuant to this chapter and allow for the recipient to ask any appropriate questions necessary to

fully understand the document. It shall be the responsibility of the person presenting the document to the child or young adult to comply with this subparagraph.

(b) It is further the intent of the Legislature that each child in foster care, his or her foster parents, if applicable, and the department or community-based provider set early achievement and career goals for the child's postsecondary educational and work experience. The department and community-based providers shall implement the model set forth in this paragraph to help ensure that children in foster care are ready for postsecondary education and the workplace.

1. For children in foster care who have reached 13 years of age, ~~entering the 9th grade, their foster parents, and~~ the department or community-based provider shall ensure that the child's case plan includes an educational and career path ~~be active participants in choosing a post-high school goal~~ based upon both the abilities and interests of each child. The child, the foster parents, and a teacher or other school staff member shall be included to the fullest extent possible in developing the path. The path shall be reviewed at each judicial hearing as part of the case plan and ~~goal~~ shall accommodate the needs of children served in exceptional education programs to the extent appropriate for each individual. Such children may continue to follow the courses outlined in the district school board student progression plan. Children in foster care, with the assistance of their foster parents, and the department or community-based provider shall choose one of the following postsecondary goals:

a. Attending a 4-year college or university, a community college plus university, or a military academy;

b. Receiving a 2-year postsecondary degree;

c. Attaining a postsecondary career and technical certificate or credential; or

d. Beginning immediate employment, including apprenticeship, after completion of a high school diploma or its equivalent, or enlisting in the military.

2. In order to assist the child in foster care in achieving his or her chosen goal, the department or community-based provider shall, with the participation of the child and foster parents, identify:

a. The core courses necessary to qualify for a chosen goal.

b. Any elective courses which would provide additional help in reaching a chosen goal.

c. The grade point requirement and any additional information necessary to achieve a specific goal.

d. A teacher, other school staff member, employee of the department or community-based care provider, or community volunteer who would be willing to work with the child as an academic advocate or mentor if foster parent involvement is insufficient or unavailable.

3. In order to complement educational goals, the department and community-based providers are encouraged to form partnerships with the business community to support internships, apprenticeships, or other work-related opportunities.

4. The department and community-based providers shall ensure that children in foster care and their foster parents are made aware of the postsecondary goals available and shall assist in identifying the coursework necessary to enable the child to reach the chosen goal.

(c) All children in foster care and young adults formerly in foster care are encouraged to take part in learning

opportunities that result from participation in community service activities.

(d) Children in foster care and young adults formerly in foster care shall be provided with the opportunity to change from one postsecondary goal to another, and each postsecondary goal shall allow for changes in each individual's needs and preferences. Any change, particularly a change that will result in additional time required to achieve a goal, shall be made with the guidance and assistance of the department or community-based provider.

(4) SERVICES FOR CHILDREN IN FOSTER CARE.--The department shall provide the following transition to independence services to children in foster care who meet prescribed conditions and are determined eligible by the department. The service categories available to children in foster care which facilitate successful transition into adulthood are:

(a) Preindependent living services.--

1. Preindependent living services include, but are not limited to, life skills training, educational field trips, and conferences. The specific services to be provided to a child shall be determined using a preindependent living assessment.

2. A child who has reached 13 years of age but is not yet 15 years of age who is in foster care is eligible for such services.

3. The department shall conduct an annual staffing for each child who has reached 13 years of age but is not yet 15 years of age to ensure that the preindependent living training and services to be provided as determined by the preindependent living assessment are being received and to evaluate the progress of the child in developing the needed independent living skills.

4. At the first annual staffing that occurs following a child's 14th birthday, and at each subsequent staffing, the department or community-based provider shall ensure that the child's case plan includes an educational and career path based upon both the abilities and interests of each child and shall provide to each child detailed personalized information on services provided by the Road-to-Independence ~~Scholarship~~ Program, including requirements for eligibility; on other grants, scholarships, and waivers that are available and should be sought by the child with assistance from the department, including, but not limited to, the Bright Futures Scholarship Program, as provided in ss. 1009.53-1009.538; on application deadlines; and on grade requirements for such programs.

5. Information related to both the preindependent living assessment and all staffings, which shall be reduced to writing and signed by the child participant, shall be included as a part of the written report required to be provided to the court at each judicial review held pursuant to s. 39.701.

(b) Life skills services.--

1. Life skills services may include, but are not limited to, independent living skills training, including training to develop banking and budgeting skills, interviewing skills, parenting skills, and time management or organizational skills, educational support, employment training, and counseling. Children receiving these services should also be provided with information related to social security insurance benefits and public assistance. The specific services to be provided to a child shall be determined using an independent life skills assessment.

2. A child who has reached 15 years of age but is not yet 18 years of age who is in foster care is eligible for such services.

3. The department shall conduct a staffing at least once every 6 months for each child who has reached 15 years of age but is not yet 18 years of age to ensure that the appropriate independent living training and services as determined by the independent life skills assessment are being received and to evaluate the progress of the child in developing the needed independent living skills.

4. The department shall provide to each child in foster care during the calendar month following the child's 17th birthday an independent living assessment to determine the child's skills and abilities to live independently and become self-sufficient. Based on the results of the independent living assessment, services and training shall be provided in order for the child to develop the necessary skills and abilities prior to the child's 18th birthday.

5. Information related to both the independent life skills assessment and all staffings, which shall be reduced to writing and signed by the child participant, shall be included as a part of the written report required to be provided to the court at each judicial review held pursuant to s. 39.701.

(c) Subsidized independent living services.--

1. Subsidized independent living services are living arrangements that allow the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under s. 409.175.

2. A child who has reached 16 years of age but is not yet 18 years of age is eligible for such services if he or she:

a. Is adjudicated dependent under chapter 39; has been placed in licensed out-of-home care for at least 6 months prior to entering subsidized independent living; and has a permanency goal of adoption, independent living, or long-term licensed care; and

b. Is able to demonstrate independent living skills, as determined by the department, using established procedures and assessments.

3. Independent living arrangements established for a child must be part of an overall plan leading to the total independence of the child from the department's supervision. The plan must include, but need not be limited to, a description of the skills of the child and a plan for learning additional identified skills; the behavior that the child has exhibited which indicates an ability to be responsible and a plan for developing additional responsibilities, as appropriate; a plan for future educational, vocational, and training skills; present financial and budgeting capabilities and a plan for improving resources and ability; a description of the proposed residence; documentation that the child understands the specific consequences of his or her conduct in the independent living program; documentation of proposed services to be provided by the department and other agencies, including the type of service and the nature and frequency of contact; and a plan for maintaining or developing relationships with the family, other adults, friends, and the community, as appropriate.

4. Subsidy payments in an amount established by the department may be made directly to a child under the direct supervision of a caseworker or other responsible adult approved by the department.

(5) SERVICES FOR YOUNG ADULTS FORMERLY IN FOSTER CARE.--Based on the availability of funds, the department shall provide or arrange for the following services to young adults formerly in foster care who meet the prescribed conditions and are determined eligible by the department. The department, or a community-based care lead agency when the agency is under contract with the department to provide the services described under this subsection, shall develop a plan to implement those services. A plan shall be developed for each community-based care service area in the state. Each plan that is developed by a community-based care lead agency shall be submitted to the department. Each plan shall include the number of young adults to be served each month of the fiscal year and specify the number of young adults who will reach 18 years of age who will be eligible for the plan and the number of young adults who will reach 23 years of age and will be ineligible for the plan or who are otherwise ineligible during each month of the fiscal year; staffing requirements and all related costs to administer the services and program; expenditures to or on behalf of the eligible recipients; costs of services provided to young adults through an approved plan for housing, transportation, and employment; reconciliation of these expenses and any additional related costs with the funds allocated for these services; and an explanation of and a plan to resolve any shortages or surpluses in order to end the fiscal year with a balanced budget. The categories of services available to assist a young adult formerly in foster care to achieve independence are:

(a) Aftercare support services.--

1. Aftercare support services are available to assist young adults who were formerly in foster care in their efforts to continue to develop the skills and abilities necessary for

independent living. The aftercare support services available include, but are not limited to, the following:

a. Mentoring and tutoring.

b. Mental health services and substance abuse counseling.

c. Life skills classes, including credit management and preventive health activities.

d. Parenting classes.

e. Job and career skills training.

f. Counselor consultations.

g. Temporary financial assistance.

h. Financial literacy skills training.

The specific services to be provided under this subparagraph shall be determined by an aftercare services assessment and may be provided by the department or through referrals in the community.

2. Temporary assistance provided to prevent homelessness shall be provided as expeditiously as possible and within the limitations defined by the department.

3. ~~2.~~ A young adult who has reached 18 years of age but is not yet 23 years of age who leaves foster care at 18 years of age but who requests services prior to reaching 23 years of age is eligible for such services.

(b) Road-to-Independence ~~Scholarship~~ Program.--

1. The Road-to-Independence ~~Scholarship~~ Program is intended to help eligible students who are former foster children in this state to receive the educational and vocational training needed to achieve independence. The amount of the award shall be based on the living and educational needs of the young adult and may be up to, but may not exceed, the amount of

earnings that the student would have been eligible to earn working a 40-hour-a-week federal minimum wage job.

2. A young adult who has reached 18 years of age but is not yet 21 years of age is eligible for the initial award, and a young adult under 23 years of age is eligible for renewal awards, if he or she:

a. Was a dependent child, under chapter 39, and was living in licensed foster care or in subsidized independent living at the time of his or her 18th birthday or is currently in licensed foster care or subsidized independent living, was adopted from foster care after reaching 16 years of age, or, after spending at least 6 months in the custody of the department after reaching 16 years of age, was placed in a guardianship by the court;

b. Spent at least 6 months living in foster care before reaching his or her 18th birthday;

c. Is a resident of this state as defined in s. 1009.40; and

d. Meets one of the following qualifications:

(I) Has earned a standard high school diploma or its equivalent as described in s. 1003.43 or s. 1003.435, or has earned a special diploma or special certificate of completion as described in s. 1003.438, and has been admitted for full-time enrollment in an eligible postsecondary education institution as defined in s. 1009.533;

(II) Is enrolled full time in an accredited high school; or

(III) Is enrolled full time in an accredited adult education program designed to provide the student with a high school diploma or its equivalent.

3. A young adult applying for the ~~a~~ Road-to-Independence Program ~~Scholarship~~ must apply for any other grants and scholarships for which he or she may qualify. The department shall assist the young adult in the application process and may use the federal financial aid grant process to determine the funding needs of the young adult.

4. An award shall be available to a young adult who is considered a full-time student or its equivalent by the educational institution in which he or she is enrolled, unless that young adult has a recognized disability preventing full-time attendance. The amount of the award, whether it is being used by a young adult working toward completion of a high school diploma or its equivalent or working toward completion of a postsecondary education program, shall be determined based on an assessment of the funding needs of the young adult. This assessment must consider the young adult's living and educational costs and other grants, scholarships, waivers, earnings, and other income to be received by the young adult. An award shall be available only to the extent that other grants and scholarships are not sufficient to meet the living and educational needs of the young adult, but an award may not be less than $25 in order to maintain Medicaid eligibility for the young adult as provided in s. 409.903.

5. The amount of the award may be disregarded for purposes of determining the eligibility for, or the amount of, any other federal or federally supported assistance.

6. ~~5~~.a. The department must advertise the criteria, application procedures, and availability of the program to:

(I) Children and young adults in, leaving, or formerly in foster care.

(II) Case managers.

(III) Guidance and family services counselors.

(IV) Principals or other relevant school administrators ~~and must ensure that the children and young adults leaving foster care, foster parents, or family services counselors are informed of the availability of the program and the application procedures~~.

(V) Guardians ad litem.

(VI) Foster parents.

~~b. A young adult must apply for the initial award during the 6 months immediately preceding his or her 18th birthday, and the department shall provide assistance with the application process. A young adult who fails to make an initial application, but who otherwise meets the criteria for an initial award, may make one application for the initial award if the application is made before the young adult's 21st birthday. If the young adult does not apply for an initial award before his or her 18th birthday, the department shall inform that young adult of the opportunity to apply before turning 21 years of age.~~

b. ~~c.~~ ~~If funding for the program is available,~~ The department shall issue awards from the ~~scholarship~~ program for each young adult who meets all the requirements of the program to the extent funding is available.

c. ~~d.~~ An award shall be issued at the time the eligible student reaches 18 years of age.

d. ~~e.~~ A young adult who is eligible for the Road-to-Independence Program, transitional support services, or aftercare services and who so desires shall be allowed to reside with the licensed foster family or group care provider with whom he or she was residing at the time of attaining his or her 18th birthday or to reside in another licensed foster home or with a group care provider arranged by the department.

e. ~~f.~~ If the award recipient transfers from one eligible institution to another and continues to meet eligibility requirements, the award must be transferred with the recipient.

f. ~~g.~~ ~~Scholarship~~ Funds awarded to any eligible young adult under this program are in addition to any other services or funds provided to the young adult by the department through transitional support services or aftercare services ~~its independent living transition services~~.

g. ~~h.~~ The department shall provide information concerning young adults receiving funding through the Road-to-Independence Program ~~Scholarship~~ to the Department of Education for inclusion in the student financial assistance database, as provided in s. 1009.94.

h. ~~i.~~ ~~Scholarship~~ Funds are intended to help eligible young adults ~~students~~ who are former foster children in this state to receive the educational and vocational training needed to become independent and self-supporting. The funds shall be terminated when the young adult has attained one of four postsecondary goals under subsection (3) or reaches 23 years of age, whichever occurs earlier. In order to initiate postsecondary education, to allow for a change in career goal, or to obtain additional skills in the same educational or vocational area, a young adult may earn no more than two diplomas, certificates, or credentials. A young adult attaining an associate of arts or associate of science degree shall be permitted to work toward completion of a bachelor of arts or a bachelor of science degree or an equivalent undergraduate degree. Road-to-Independence Program ~~Scholarship~~ funds may not be used for education or training after a young adult has attained a bachelor of arts or a bachelor of science degree or an equivalent undergraduate degree.

i. ~~j.~~ The department shall evaluate and renew each award annually during the 90-day period before the young adult's birthday. In order to be eligible for a renewal award for the subsequent year, the young adult must:

(I) Complete the number of hours, or the equivalent considered full time by the educational institution, unless that young adult has a recognized disability preventing full-time attendance, in the last academic year in which the young adult earned an award ~~a scholarship~~, except for a young adult who meets the requirements of s. 1009.41.

(II) Maintain appropriate progress as required by the educational institution, except that, if the young adult's progress is insufficient to renew the award ~~scholarship~~ at any time during the eligibility period, the young adult may restore eligibility by improving his or her progress to the required level.

j. ~~k.~~ ~~Scholarship~~ Funds may be terminated during the interim between an award and the evaluation for a renewal award if the department determines that the award recipient is no longer enrolled in an educational institution as defined in sub-subparagraph 2.d., or is no longer a state resident. The department shall notify a recipient ~~student~~ who is terminated and inform the recipient ~~student~~ of his or her right to appeal.

k. ~~l.~~ An award recipient who does not qualify for a renewal award or who chooses not to renew the award may subsequently apply for reinstatement. An application for reinstatement must be made before the young adult reaches 23 years of age, and a student may not apply for reinstatement more than once. In order to be eligible for reinstatement, the young adult must meet the eligibility criteria and the criteria for award renewal for the ~~scholarship~~ program.

(c) Transitional support services.--

1. In addition to any services provided through aftercare support or the Road-to-Independence Program ~~Scholarship~~, a young adult formerly in foster care may receive other appropriate short-term funding and services, which may include financial, housing, counseling, employment, education, mental health, disability, and other services, if the young adult demonstrates that the services are critical to the young adult's own efforts to achieve self-sufficiency and to develop a personal support system. The department or community-based care provider shall work with the young adult in developing a joint transition plan that is consistent with a needs assessment identifying the specific need for transitional services to support the young adult's own efforts. The young adult must have specific tasks to complete or maintain included in the plan and be accountable for the completion of or making progress towards the completion of these tasks. If the young adult and the department or community-based care provider cannot come to agreement regarding any part of the plan, the young adult may access a grievance process to its full extent in an effort to resolve the disagreement.

2. A young adult formerly in foster care is eligible to apply for transitional support services if he or she has reached 18 years of age but is not yet 23 years of age, was a dependent child pursuant to chapter 39, was living in licensed foster care or in subsidized independent living at the time of his or her 18th birthday, and had spent at least 6 months living in foster care before that date.

3. If at any time the services are no longer critical to the young adult's own efforts to achieve self-sufficiency and to develop a personal support system, they shall be terminated.

(d) Payment of aftercare, Road-to-Independence Program ~~scholarship~~, or transitional support funds.--

1. Payment of aftercare, Road-to-Independence Program ~~scholarship~~, or transitional support funds shall be made directly to the recipient unless the recipient requests in writing to the community-based care lead agency, or the department, that the payments or a portion of the payments be made directly on the recipient's behalf in order to secure services such as housing, counseling, education, or employment training as part of the young adult's own efforts to achieve self-sufficiency.

2. After the completion of aftercare support services that satisfy the requirements of sub-subparagraph (a)1.h., payment of awards under the Road-to-Independence Program shall be made by direct deposit to the recipient, unless the recipient requests in writing to the community-based care lead agency or the department that:

a. The payments be made directly to the recipient by check or warrant;

b. The payments or a portion of the payments be made directly on the recipient's behalf to institutions the recipient is attending to maintain eligibility under this section; or

c. The payments be made on a two-party check to a business or landlord for a legitimate expense, whether reimbursed or not. A legitimate expense for the purposes of this sub-subparagraph shall include automobile repair or maintenance expenses; educational, job, or training expenses; and costs incurred, except legal costs, fines, or penalties, when applying for or executing a rental agreement for the purposes of securing a home or residence.

3. The community-based care lead agency may purchase housing, transportation, or employment services to ensure the availability and affordability of specific transitional services thereby allowing an eligible young adult to utilize these services in lieu of receiving a direct payment. Prior to purchasing such services, the community-based care lead agency must have a plan approved by the department describing the services to be purchased, the rationale for purchasing the services, and a specific range of expenses for each service that is less than the cost of purchasing the service by an individual young adult. The plan must include a description of the transition of a young adult using these services into independence and a timeframe for achievement of independence. An eligible young adult who prefers a direct payment shall receive such payment. The plan must be reviewed annually and evaluated for cost-efficiency and for effectiveness in assisting young adults in achieving independence, preventing homelessness among young adults, and enabling young adults to earn a livable wage in a permanent employment situation.

4. The young adult who resides with a foster family may not be included as a child in calculating any licensing restriction on the number of children in the foster home.

(e) Appeals process.--

1. The Department of Children and Family Services shall adopt by rule a procedure by which a young adult may appeal an eligibility determination or the department's failure to provide aftercare, Road-to-Independence Program ~~scholarship~~, or transitional support services, or the termination of such services, if such funds are available.

2. The procedure developed by the department must be readily available to young adults, must provide timely

decisions, and must provide for an appeal to the Secretary of Children and Family Services. The decision of the secretary constitutes final agency action and is reviewable by the court as provided in s. 120.68.

(6) ACCOUNTABILITY.--The department shall develop outcome measures for the program and other performance measures in order to maintain oversight of the program. The department shall report on the outcome measures and the department's oversight activities in a report to the Legislature. The report must be prepared and submitted to the committees of jurisdiction for issues relating to children and families in the Senate and House of Representatives no later than January 31 of each year. The report must include:

(a) An analysis of performance on outcome measures developed under this section reported for each community-based care lead agency and compared with the performance of the department on the same measures;

(b) A description of the department's oversight of the program including, by lead agency, any programmatic or fiscal deficiencies found, corrective actions required, and current status of compliance; and

(c) Any rules adopted or proposed under the authority of this section since the last report. For the purposes of the first report, any rules adopted or proposed under the authority of this section must be included.

(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.--The Secretary of Children and Family Services shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the independent living transition services. This advisory council shall continue to

function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the independent living transition services.

(a) Specifically, the advisory council shall assess the implementation and operation of the system of independent living transition services and advise the department on actions that would improve the ability of the independent living transition services to meet the established goals. The advisory council shall keep the department informed of problems being experienced with the services, barriers to the effective and efficient integration of services and support across systems, and successes that the system of independent living transition services has achieved. The department shall consider, but is not required to implement, the recommendations of the advisory council.

(b) The advisory council shall report to the appropriate substantive committees of the Senate and the House of Representatives on the status of the implementation of the system of independent living transition services; efforts to publicize the availability of aftercare support services, the Road-to-Independence ~~Scholarship~~ Program, and transitional support services; ~~specific barriers to financial aid created by the scholarship and possible solutions;~~ the success of the services; problems identified; recommendations for department or legislative action; and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the Senate and the House substantive committees December 31, 2002. This advisory council report shall be submitted by December 31 of each year that the council is in existence and shall be accompanied by a

report from the department which identifies the recommendations of the advisory council and either describes the department's actions to implement these recommendations or provides the department's rationale for not implementing the recommendations.

(c) Members of the advisory council shall be appointed by the secretary of the department. The membership of the advisory council must include, at a minimum, representatives from the headquarters and district offices of the Department of Children and Family Services, community-based care lead agencies, the Agency for Workforce Innovation, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, Workforce Florida, Inc., the Statewide Guardian Ad Litem Office, foster parents, recipients of Road-to-Independence Program funding, and advocates for foster children. The secretary shall determine the length of the term to be served by each member appointed to the advisory council, which may not exceed 4 years.

(d) The Department of Children and Family Services shall provide administrative support to the Independent Living Services Advisory Council to accomplish its assigned tasks. The advisory council shall be afforded access to all appropriate data from the department, each community-based care lead agency, and other relevant agencies in order to accomplish the tasks set forth in this section. The data collected may not include any information that would identify a specific child or young adult.

(8) PERSONAL PROPERTY.--Property acquired on behalf of clients of this program shall become the personal property of the clients and is not subject to the requirements of chapter 273 relating to state-owned tangible personal property. Such property continues to be subject to applicable federal laws.

(9) MEDICAL ASSISTANCE FOR YOUNG ADULTS FORMERLY IN FOSTER CARE.--The department shall enroll in the Florida KidCare program, outside the open enrollment period, each young adult who is eligible as described in paragraph (2)(b) and who has not yet reached his or her 19th birthday.

(a) A young adult who was formerly in foster care at the time of his or her 18th birthday and who is 18 years of age but not yet 19, shall pay the premium for the Florida KidCare program as required in s. 409.814.

(b) A young adult who has health insurance coverage from a third party through his or her employer or who is eligible for Medicaid is not eligible for enrollment under this subsection.

(10) RULEMAKING.--The department shall adopt by rule procedures to administer this section, including balancing the goals of normalcy and safety for the youth and providing the caregivers with as much flexibility as possible to enable the youth to participate in normal life experiences. The department shall not adopt rules relating to reductions in ~~scholarship~~ awards. The department shall engage in appropriate planning to prevent, to the extent possible, a reduction in ~~scholarship~~ awards after issuance.

Section 10. Paragraph (b) of subsection (2) of section 409.175, Florida Statutes, is amended to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.--

(2) As used in this section, the term:

(b) "Boarding school" means a school which is <u>accredited by the Florida Council of Independent Schools or the Southern Association of Colleges and Schools; which is accredited by the Council on Accreditation, the Commission on Accreditation of</u>

Rehabilitation Facilities, or the Coalition for Residential Education; and which is registered with the Department of Education as a school. Its program must follow established school schedules, with holiday breaks and summer recesses in accordance with other public and private school programs. The children in residence must customarily return to their family homes or legal guardians during school breaks and must not be in residence year-round, except that this provision does not apply to foreign students. The parents of these children retain custody and planning and financial responsibility. A boarding school currently in existence and a boarding school opening and seeking accreditation has 3 years to comply with the requirements of this paragraph. A boarding school must provide proof of accreditation or documentation of the accreditation process upon request. A boarding school that cannot produce the required documentation or that has not registered with the Department of Education shall be considered to be providing residential group care without a license. The department may impose administrative sanctions or seek civil remedies as provided under paragraph (11)(a).

Section 11. Subsection (2) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel.--

(2) The circuit court shall have exclusive original jurisdiction of all proceedings under this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of children whose parental rights have been terminated under this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition is filed or when a child is taken into

the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or some other person, or was in the physical or legal custody of no person when the event or condition occurred that brought the child to the attention of the court. When the court obtains jurisdiction of any child who has been found to be dependent, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age. However, if a youth petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the juvenile court may retain jurisdiction under this chapter for a period not to exceed 1 year following the youth's 18th birthday for the purpose of determining whether appropriate aftercare support, Road-to-Independence Program ~~Scholarship~~, transitional support, mental health, and developmental disability services, to the extent otherwise authorized by law, have been provided to the formerly dependent child who was in the legal custody of the department immediately before his or her 18th birthday. If a petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the

services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday.

Section 12. Paragraph (a) of subsection (6) of section 39.701, Florida Statutes, is amended to read:

39.701 Judicial review.--

(6)(a) In addition to paragraphs (1)(a) and (2)(a), the court shall hold a judicial review hearing within 90 days after a youth's 17th birthday. The court shall also issue an order, separate from the order on judicial review, that the disabilities of non-age of the youth have been removed pursuant to s 743.04. The court ~~and~~ shall continue to hold timely judicial review hearings thereafter. In addition, the court may review the status of the child more frequently during the year prior to the youth's 18th birthday if necessary. At each review held under this subsection, in addition to any information or report provided to the court, the foster parent, legal custodian, guardian ad litem, and the child shall be given the opportunity to address the court with any information relevant to the child's best interests, particularly as it relates to independent living transition services. In addition to any information or report provided to the court, the department shall include in its judicial review social study report written verification that the child:

1. Has been provided with a current Medicaid card and has been provided all necessary information concerning the Medicaid program sufficient to prepare the youth to apply for coverage upon reaching age 18, if such application would be appropriate.

2. Has been provided with a certified copy of his or her birth certificate and, if the child does not have a valid

driver's license, a Florida identification card issued under s. 322.051.

3. Has been provided information relating to Social Security Insurance benefits if the child is eligible for these benefits. If the child has received these benefits and they are being held in trust for the child, a full accounting of those funds must be provided and the child must be informed about how to access those funds.

4. Has been provided with information and training related to budgeting skills, interviewing skills, and parenting skills.

5. Has been provided with all relevant information related to the Road-to-Independence Program ~~Scholarship~~, including, but not limited to, eligibility requirements, forms necessary to apply, and assistance in completing the forms. The child shall also be informed that, if he or she is eligible for the Road-to-Independence ~~Scholarship~~ Program, he or she may reside with the licensed foster family or group care provider with whom the child was residing at the time of attaining his or her 18th birthday or may reside in another licensed foster home or with a group care provider arranged by the department.

6. Has an open bank account, or has identification necessary to open an account, and has been provided with essential banking skills.

7. Has been provided with information on public assistance and how to apply.

8. Has been provided a clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and what educational program or school he or she will be enrolled in.

9. Has been provided with notice of the youth's right to petition for the court's continuing jurisdiction for 1 year

after the youth's 18th birthday as specified in s. 39.013(2) and with information on how to obtain access to the court.

10. Has been encouraged to attend all judicial review hearings occurring after his or her 17th birthday.

Section 13. Paragraph (c) of subsection (2) of section 1009.25, Florida Statutes, is amended to read:

1009.25 Fee exemptions.--

(2) The following students are exempt from the payment of tuition and fees, including lab fees, at a school district that provides postsecondary career programs, community college, or state university:

(c) A student who ~~the state has determined is eligible for the Road-to-Independence Scholarship, regardless of whether an award is issued or not, or a student who~~ is or was at the time he or she reached 18 years of age in the custody of the Department of Children and Family Services or a relative under s. 39.5085, ~~or~~ who is adopted from the Department of Children and Family Services after May 5, 1997, or who, after spending at least 6 months in the custody of the department after reaching 16 years of age, was placed in a guardianship by the court. Such exemption includes fees associated with enrollment in career-preparatory instruction and completion of the college-level communication and computation skills testing program. Such an exemption is available to any student who was in the custody of a relative under s. 39.5085 at the time he or she reached 18 years of age or was adopted from the Department of Children and Family Services after May 5, 1997; however, the exemption remains valid for no more than 4 years after the date of graduation from high school.

Section 14. Section 743.045, Florida Statutes, is created to read:

743.045 Removal of disabilities of minors; executing contracts for a residential lease.--For the sole purpose of ensuring that youth in foster care will be able to execute a contract for the lease of residential property in order that the day of the youth's 18th birthday, the disability of nonage of minors is removed for all youth who have reached the age of 17 years, who have been adjudicated dependent, and who are in the legal custody of the Department of Children and Family Services through foster care or subsidized independent living. These youth are authorized to make and execute contracts, releases, and all other instruments necessary for the purpose of entering into a contract for the lease of residential property upon the youth's 18th birthday. The contracts or other instruments made by the youth shall have the same effect as though they were the obligations of persons who were not minors. Youth seeking to enter into such lease contracts or execute other necessary instruments that are incidental to entering into a lease must present an order from a court of competent jurisdiction removing the disabilities of nonage of the minor under this section.

Section 15. Subsection (4) of section 409.903, Florida Statutes, is amended to read:

409.903 Mandatory payments for eligible persons.--The agency shall make payments for medical assistance and related services on behalf of the following persons who the department, or the Social Security Administration by contract with the Department of Children and Family Services, determines to be eligible, subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(4) A child who is eligible under Title IV-E of the Social Security Act for subsidized board payments, foster care, or adoption subsidies, and a child for whom the state has assumed temporary or permanent responsibility and who does not qualify for Title IV-E assistance but is in foster care, shelter or emergency shelter care, or subsidized adoption. This category includes any young adult who is eligible to receive services under s. 409.1451(5), until the young adult reaches the age of 20, without regard to any income, resource, or categorical eligibility test that is otherwise required. This category also includes a person who, as a child ~~who~~ was eligible under Title IV-E of the Social Security Act for foster care or the state-provided foster care, ~~who exited foster care due to attaining the age of 18 years,~~ and who is a participant in the ~~has been awarded a~~ Road-to-Independence Program ~~Scholarship~~.

Section 16. This act shall take effect July 1, 2006, only if a specific appropriation is made in the General Appropriations Act for fiscal year 2006-2007.

========== **T I T L E A M E N D M E N T** ==========

Remove the entire title and insert:

A bill to be entitled

An act relating to the welfare of children; amending s. 39.001, F.S.; providing additional purposes of ch. 39, F.S.; revising legislative intent; creating the Office of Child Abuse Prevention within the Executive Office of the Governor; directing the Governor to appoint a director of the office; providing duties and responsibilities of the director; providing procedures for evaluation of child abuse prevention programs; requiring a report to the Governor, Legislature, secretaries of certain state

agencies, and certain committees of the Legislature; providing for information to be included in the report; providing for the development and implementation of a state plan for the coordination of child abuse prevention programs and services; establishing a Child Abuse Prevention Advisory Council; providing for membership, duties, and responsibilities; requiring requests for funding to be based on the state plan; providing for review and revision of the state plan; granting rulemaking authority to the Executive Office of the Governor; requiring the Legislature to evaluate the office by a specified date; amending s. 39.0014, F.S.; providing responsibilities of the office under ch. 39, F.S.; amending s. 39.01, F.S.; providing and revising definitions; amending s. 39.202, F.S.; providing access to records for agencies that provide early intervention and prevention services; amending ss. 39.0015 and 39.302, F.S.; conforming cross-references; amending s. 402.164, F.S.; establishing legislative intent for the statewide and local advocacy councils; providing a definition; amending s. 402.165, F.S.; providing guidelines for selection of the executive director of the Florida Statewide Advocacy Council; establishing a process for investigating reports of abuse; revising council meeting requirements; providing requirements for interagency agreements; requiring interagency agreements to be renewed annually and submitted to the Governor by a specified date; amending s. 409.1451, F.S., relating to independent living transition services; revising eligibility requirements for certain young adults; revising duties of the Department of Children and Family Services regarding

independent living transition services; including additional parties in the review of a child's academic performance; requiring the department or a community-based care lead agency under contract with the department to develop a plan for delivery of such services; requiring additional aftercare support services; providing additional qualifications to receive an award under the Road-to-Independence Program; deleting certain time restrictions for submitting applications; providing procedures for the payment of awards; requiring collaboration between certain parties in the development of a plan regarding the provision of transitional services; requiring a community-based care lead agency to develop a plan for purchase and delivery of such services and requiring department approval prior to implementation; requiring the department to submit a report annually to the Legislature on performance, oversight, and rule development; permitting the Independent Living Services Advisory Council to have access to certain data held by the department and certain agencies; amending s. 409.175, F.S.; revising the definition of the term "boarding school" to require such schools to meet certain standards within a specified timeframe; amending ss. 39.013, 39.701, and 1009.25, F.S.; conforming references to changes made by the act; requiring the court to issue an order, separate from other judicial review order; amending s. 743.045, F.S.; removing the disability of nonage for certain youth in the legal custody of the Department of Children and Family Services who are in foster care; amending s. 409.903, F.S.; providing eligibility criteria

for certain persons for medical assistance payments; providing an effective date.

WHEREAS, in 2002, Florida was among only three other states and the District of Columbia to have the highest national child maltreatment rate, and

WHEREAS, during 2002, 142,547 investigations of abuse or neglect, involving 254,856 children, were completed, approximately one-half of which were substantiated or indicated the presence of abuse or neglect, and

WHEREAS, a Florida child is abused or neglected every 4 minutes and 10,000 Florida children are abused or neglected per month, and

WHEREAS, in 2004, according to the Florida Child Abuse Death Review Team, at least 111 Florida children died from abuse or neglect at the hands of their parents or caretakers, an average rate of two dead children each week, and

WHEREAS, according to the Centers for Disease Control and Prevention, the cost of failing to prevent child abuse and neglect in 2001 equaled $94 billion a year nationally, and

WHEREAS, the direct costs of failing to prevent child abuse and neglect include the costs associated with the utilization of law enforcement services, the health care system, the mental health system, the child welfare system, and the judicial system, while the indirect costs include the provision of special education and mental health and health care, a rise in the incidence of juvenile delinquency, lost productivity to society, and adult criminality, and

WHEREAS, although prevention of child maltreatment will save lives and conserve resources, and despite the potential long-term benefit of preventing child abuse and neglect, only a

small percentage of all resources specifically earmarked for child maltreatment in the state are actually devoted to the prevention of child maltreatment, and

WHEREAS, the 2005-2006 General Appropriations Act provided a total funding of $44 million for child abuse prevention and intervention to the Department of Children and Family Services, which amount represents less than 2 percent of the department's budget, and

WHEREAS, Healthy Families Florida is a community-based, voluntary home visiting program that received approximately $28.4 million for the 2005-2006 fiscal year from the Department of Children and Family Services and contracts with 37 community-based organizations to provide services in targeted high-risk areas in 23 counties and to provide services in 30 total counties, and

WHEREAS, Healthy Families Florida participants had 20 percent less child maltreatment than all families in the Healthy Families Florida target service areas in spite of the fact that, in general, participants are at a significantly higher risk for child maltreatment than the overall population, and

WHEREAS, the Department of Children and Family Services, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, the Agency for Persons with Disabilities, and the Agency for Workforce Innovation all have programs that focus on primary and secondary prevention of child abuse and neglect, but there is no statewide coordination or single state agency responsible for oversight of these programs, and

WHEREAS, a statewide coordinated effort would result in better communication among agencies and provide for easier

access and more efficiency in the delivery of abuse and neglect services in the communities, NOW, THEREFORE,

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7215 PCB HCR 06-06 Rural Health Care
SPONSOR(S): Health Care Regulation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Health Care Regulation Committee	8 Y, 0 N	Mitchell	Mitchell
1) Health Care Appropriations Committee	(W/D)		
2) Health & Families Council		Mitchell	Moore
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 7215 reorganizes existing rural health support functions of the Department of Health, to provide planning and support for the development of networks of rural health providers. It creates a joint advisory board appointed by the Secretaries of the Department of Health and the Agency for Health Care Administration, to coordinate efforts of the agencies and stakeholders. The bill moves grant programs that support rural hospitals under the purview of the Agency for Health Care Administration, and establishes provisions to assist financially distressed rural hospitals and development of Rural Provider Service Networks. The bill establishes provisions for Rural Hospital Receivership, similar to nursing homes and other facilities, to give AHCA options to keep a facility open to continue care, instead of having to close a failing facility by removing its license.

Health care providers in Florida's rural areas continue to face major challenges in establishing and maintaining services. The relative isolation, lack of community resources, and high proportion of uninsured and government funded patients make rural health care delivery a continual struggle to maintain financial solvency.

As in the rest of the country, small, rural hospitals especially face declining public and private reimbursements and a poor and aging population with a greater likelihood of being uninsured and unhealthy. Often they are taken advantage of by unqualified outside management companies. Two North Florida rural hospitals have recently closed--Gulf Pines in Port St. Joe, Gulf County, and Gadsden Memorial Hospital in Quincy.

Because the underlying system of health care financing and delivery, including Florida's Medicaid Reform, is changing from fee-for-service payments to capitation and other risk-sharing payment methods, and cost containment is moving away from regulatory to more market-based strategies, the development of provider service networks is needed to strengthen the rural health care infrastructure and improve access to services. Currently financially stressed rural health providers, especially the hospitals that serve as critical anchors to rural health care, are not prepared to meet these challenges and communities face the prospect of losing access to care.

The bill includes grant programs that use existing state and federal funding. Additional capacity is dependent on any specific appropriations.

The effective date of the bill is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Limited Government – The bill provides for better coordination of existing efforts to help health care providers meet the needs of rural communities. It provides assistance in establishing Provider Service Networks and financially viable hospitals to meet changes in managed care financing and regulation of health care, including Florida's Medicaid Reform.

Empower Families – The bill increases the opportunity for rural families to access quality health care in their communities.

B. EFFECT OF PROPOSED CHANGES:

HB 7215 reorganizes existing rural health support functions of the Department of Health to provide planning and support for the development of rural health provider networks, and creates a joint advisory board appointed by the Secretaries of the Department of Health and the Agency for Health Care Administration to coordinate efforts of the agencies and stakeholders. The bill moves grant programs that support rural hospitals to the Agency for Health Care Administration and establishes two new programs to support the development of Rural Provider Service Networks and financially distressed small rural hospitals.

The bill:

Amends s. 381.0405, F.S., Office of Rural Health to:

- Provide for the Office of Rural Health to coordinate its activities with and administer grants to Rural Health Networks.
- Increase technical assistance in planning.
- Establish an advisory council appointed by the Secretaries of the Department of Health and Agency for Health Care Administration and require recommendations for establishing provider service networks in rural counties.

Amends s. 381.0406, F.S., Rural Health Networks, to:

- Reorganize and specify functions related to planning and coordination of service providers and remove requirements to provide health care services.
- Add findings related to rural preparation for managed care and capitation-reimbursement methodologies.
- Encourage participation by Federally Qualified Health Centers, EMS providers and County Health Departments in rural networks.
- Clarify network functions to improve quality and access to services.
- Require rural health infrastructure development plans.
- Require coordination with other entities including area health education centers, health planning councils & regional college & university education consortia.
- Establish a grant program to support network operations and rural infrastructure development.
- Delete obsolete language related to network implementation in two phases.

Amends s. 395.602(2), F.S., Rural Hospitals, to:

- Remove definitions for obsolete federal programs.
- Retain and amend the definition for "rural primary care hospitals" to continue to allow for licensure of smaller facilities that provide emergency care and temporary inpatient care.

Amends s. 395.603(1), F.S., relating to Deactivation of Hospital Beds, to remove provisions for obsolete federal programs, and it repeals s. 395.605, F.S., relating to an obsolete federal rural hospital programs.

Amends s. 395.604, F.S., relating to Rural Primary Care Hospitals, to establish provisions for funding and support for very small rural primary care hospitals that provide only emergency and temporary care, including expedited CON review and certain exemptions.

Amends s. 395.6061, F.S., relating to Rural Hospital Capital Improvement Grants, to:

- Clarify that the purpose of the program is to assist hospitals in adapting to changes in delivery of care and funding, assist financially distressed hospitals, and ensure accountability for state funds.
- Require agency technical assistance.
- Remove requirement that all rural hospitals receive an equal grant amount of $100,000 regardless of need or purpose, and specify criteria for awarding grants.
- Establish assistance to financially distressed rural hospitals, that is limited to critical access hospitals and rural hospitals with an annual occupancy rate of less than 30 percent; and requires a participation agreement and other requirements to receive funding.

Creates s. 408.7074, F.S., relating to the Provider Service Network Development Program, to:

- Establish the program in the Agency for Health Care Administration.
- Require the program to administer the Rural Hospital Capitalization Grant program in s. 395.6061, F.S.
- Establish requirements for Rural Provider Service Network Development grants.

Amends s. 408.07, F.S., relating to Reimbursement of Medicaid Providers, to require a 10 percent reimbursement bonus to physicians who have provider agreements with a rural health network.

The bill establishes an effective date of July 1, 2006.

CURRENT SITUATION

Rural Counties in Florida

Although Florida is the fourth most populous state in the U.S., it has substantial areas that are rural. As of the 2000 U.S. Census, 33 of Florida's 67 counties are considered rural based on the statutory definition of "an area with a population density of less than 100 individuals per square mile or an area defined by the most recent United States Census as rural." In area, these 33 counties cover just over 42 percent of Florida's nearly 54,000 square miles of land area. Rural counties are located primarily in the Florida Panhandle, north central Florida, the south central portion of the state, and the Florida Keys.

As of 2000, approximately 1.1 million of Florida's 16 million residents live in rural counties. Portions of other Florida counties also contain large, rural areas that are not classified as rural. Many of the counties bordering on the Atlantic Ocean and Gulf of Mexico have populations concentrated near the coast, but thinly populated interiors (e.g., Collier, Palm Beach, or Escambia counties).

Rural Health Infrastructure and Outcomes

In general, rural residents have more health problems than urban residents. Rural communities have:

- Higher rates of chronic illnesses, such as hypertension and cardiovascular disease;
- Problems unique to rural occupations, such as machinery accidents, skin cancer from sun exposure, and breathing problems from exposure to agricultural chemicals; and
- Lower rates of having health insurance with pharmacy coverage plans.

The relative disparity between the health and access to health care of Florida's urban and rural residents is an ongoing concern for policymakers. Florida has been involved in a variety of state and federal efforts to address the health care needs of rural residents over the past half-century that include:

- Hill-Burton program that provided federal funding for the construction of community hospitals during the 1950s and 60s;
- Establishment of state and regional comprehensive health planning and health systems agencies from the 1960s through 1985;
- Regional health planning efforts by local health councils from 1985 to present;
- Establishment of the Office of Rural Health in 1991;
- Authorization of rural health networks in 1993;
- Implementation of the federal critical access hospital program in 1997;
- Provision of rural emergency medical and hospital capital improvement grants to sustain essential services in rural communities and enhance the development of coordinated health care delivery in rural communities; and
- Legislative approval in 2000, for a new medical school at Florida State University to train primary care physicians to practice in underserved and rural communities.

Insufficient Health Services

While Florida has made considerable progress through these efforts, more still needs to be done to ensure that rural residents continue to have reasonable access to quality health services. These investments in Florida's health care infrastructure have not provided the significant return on investment that was anticipated. Despite advances over the past decade in reducing morbidity and mortality, the health of Florida's rural population remains at risk. Rural Florida residents have a higher mortality rate than urban residents for motor vehicle accidents, infant mortality, diabetes, Alzheimer's disease, and chronic lower respiratory disease.

Health care providers in Florida's rural areas continue to face major challenges in establishing and maintaining services. The relative isolation, lack of community resources, and high proportion of uninsured and government funded patients make rural health care delivery for many health care providers a continual struggle to maintain financial solvency. Some of Florida's 29 rural hospitals lack sufficient patient revenue to meet operating expenses, forcing the hospitals to make decisions about reducing or eliminating essential health services. Although recent federal and state programs have eased the financial burden for rural hospitals, future attempts to curb government health spending will pose an ongoing challenge for rural providers.

Approximately 20 percent of the adult population in rural areas is without health insurance coverage. This is primarily because during economic downturns, rural areas have higher levels of unemployment, and rural residents have greater difficulty obtaining health insurance coverage.

Rural Hospital Financial Problems

Rural hospitals are the hub of health care for their service areas. Skilled-nursing, home, clinical, and primary-care services often are available solely due to the presence of a hospital. The hospitals are also critical for the economic development of rural communities, as employers of skilled professionals and hospital access are needed to attract outside investment.

As in the rest of the country, small, rural hospitals in Florida face numerous challenges. Among them are declining public and private reimbursements, workforce shortages and a poor and aging population with a greater likelihood of being uninsured and unhealthy. Often they are taken advantage of by unqualified outside management companies. Two North Florida rural hospitals have recently closed--Gulf Pines in Port St. Joe, Gulf County, and Gadsden Memorial Hospital in Quincy.

The mission of the rural hospitals is to provide appropriate, life-saving health care in rural/isolated areas of the state. By definition, rural hospitals have 100 or fewer beds. Nineteen rural hospitals have

50 or fewer beds. The majority of rural hospitals are located in the Panhandle. Rural hospitals represent approximately two percent of hospital admissions statewide.

Small rural hospitals may be designated as Critical Access Hospitals and receive additional federal support. These hospitals must have no more than 25 beds of which only 15 may be acute care beds. Eleven of Florida's 29 rural hospitals are Critical Access Hospitals.

According to information provided by the Agency for Health Care Administration, the 29 rural hospitals in Florida have an overall average operating margin of 2.4 percent. The Critical Access Hospitals have an average operating margin of -.2 percent. Specific hospitals, such as Cambellton-Graceville Hospital in Jackson County, which has a -6.5 percent operating margin and Hendry Regional Medical Center in Hendry Co, with a -4.8 percent operating margin, are in very difficult financial and operating circumstances. (Hospital Bed and Service Utilization 1/17/06, Rural Hospital Payer Mix for FY 2004 based on data reported 2/2006.)

Occupancy rates are low. Information on bed days reported by rural hospitals for the second quarter of 2005 shows an overall average rural occupancy rate of 37 percent. Critical Access Hospitals have an overall occupancy rate of 25 percent. Three Critical Access Hospitals had much lower occupancy rates. Cambellton-Graceville Hospital in Jackson County reported an occupancy rate of 11 percent; George Weems Memorial Hospital in Franklin County reported an occupancy rate of 15 percent; and Gadsden County Community Hospital in Quincy, which is now closed, had an occupancy rate of only 6 percent.

Critical Access Hospitals disproportionately depend on federal programs, especially Medicare, for funding. While rural hospitals overall have a payer mix that is 60 percent Medicare Days and 14 percent Medicaid Days, Critical Access Hospitals overall have a mix that is 66 percent Medicare Days and 16 percent Medicaid Days. Hospitals with very low operating margins, such as George Weems Memorial Hospital in Apalachicola, which has a mix of 81 percent Medicare and 4.3 percent Medicaid, and Gadsden Memorial, which had a mix of 75 percent Medicare and 3 percent Medicaid, are uniquely dependent on increasingly restricted sources of reimbursement. Furthermore, they receive very little Disproportionate Share Hospital Funds that are based on Medicaid.

Case Study of the Failure of Gadsden Memorial Hospital in Quincy Florida

In November 2005, the state closed the 25-bed hospital in Quincy, Florida, as a threat to public health. As reported in the Tallahassee Democrat, February 23, 2006, county officials have been trying ever since to reopen it by getting its existing state operating license transferred from Ashford Community Health Care Systems, the management company that ran it. Ashford filed for bankruptcy protection shortly after the hospital was closed, and the license has become a valuable asset to creditors, including GE HFS Holdings Inc., a company which gave Ashford a nearly $3 million secured loan, so that Ashford is not willing to give up its lease to the hospital. Two other rural North Florida hospitals that were also run by Ashford are also in trouble, Weems Hospital in Apalachicola, and Calhoun-Liberty Hospital in Blountstown.

The county still has to evict Ashford from the hospital, an effort begun last April and interrupted by Ashford's bankruptcy filing. County officials plan now to push ahead with terminating the lease. Gadsden County is trying to set up a temporary urgent-care clinic to meet residents' health-care needs, while officials begin the arduous process of getting a new operating license for Gadsden Memorial Hospital.

CURRENT STATE PROGRAMS

Office of Rural Health

Florida's Office of Rural Health, ORH, is located within the Department of Health and has been the focal point for the development and administration of Florida's rural health policy since 1991 (s. 381.0405, F.S.). Currently, the office is staffed by two full-time positions: the Director of the Office of Rural Health and a Critical Access Hospital Coordinator.

The office's mission is to actively foster the provision of health care services in rural areas and serve as a catalyst for improved health services to citizens in rural areas of the state. The office works with other state and federal programs as Florida's rural health representative, disseminates information on Florida's rural health services, and acquires and distributes state and federal funds to assist in maintaining a coordinated and sustainable system of rural health services. Specifically, ORH is assigned responsibility for the following:

- Coordinating with other state programs and agencies (e.g., Medical Quality Assurance, Emergency Medical Services, Planning, Evaluation and Data Analysis within the larger Department of Health; the Agency for Health Care Administration; the Department of Children and Families), area health education centers, state universities, and rural health interest groups such as the Florida Hospital Association and the Florida Rural Health Association;
- Providing technical assistance to rural providers;
- Collecting and disseminating information about rural health;
- Acquiring grant funds for rural health programs and providers; and
- Working to improve access to emergency medical services in rural areas.

Since 1997, the office has focused on three key programs within rural health, the Medicare Rural Hospital Flexibility Program, the Rural Hospital Capital Improvement Grant Program, and the development and support of the state's rural health networks.

Rural Health Networks
In 1993, the Legislature established the basis for the formation of cooperative, nonprofit health networks in rural areas of Florida in s. 381.0406, F.S. These organizations were directed to address the fundamental problems in rural health: inadequate financing, problems with recruitment and retention of health personnel, and migration of patients from rural providers to urban providers, thus undermining the abilities of rural hospitals to continue to provide timely and effective care. The networks are intended to integrate public and private health resources, to emphasize cooperation over competition, and to increase usage of statutory rural hospitals in an effort to support rural economies.

Nine rural health networks have been formed in Florida. Currently, these cover 28 of the 33 rural counties as well as parts of 13 non-rural counties. The Department of Health has the responsibility for certifying the networks and for distributing grant funds to eligible participants. Florida's rural health networks have been in operation since 1993 and serve as the regional organizations responsible for carrying out much of Florida's rural health policy. Rural health networks work closely with rural communities and providers to encourage, organize, and coordinate actions to provide increased health access and improved health care services to rural communities.

Rural Hospital Capital Improvement Grant Program
In 1999, the Florida Legislature established the rural hospital capital improvement grant program through which statutory rural hospitals, as defined by s. 395.602, F.S., may apply for financial assistance to "acquire, repair, improve, or upgrade systems, facilities, or equipment" (s. 395.6061, F.S.). Upon fulfilling basic application conditions, each qualifying rural hospital receives a minimum of $100,000 per year for such capital improvements, if funds have been appropriated by the Legislature. The application, review, and administration procedures for this program are responsibilities of ORH.

Receivership Proceedings for Failing Health Care Facilities
In its regulation of several residential facilities, including nursing homes, the Agency for Health Care Administration has statutory authority to initiate receivership action in the courts in the event conditions in those facilities present a threat to the health, safety or welfare of the residents or patients. Receivership proceedings are provided in:

- s. 394.903, F.S., for mental health facilities.
- s. 400.126, F.S., for nursing home facilities.

- s. 400.422, F.S., for assisted living facilities.
- s. 400.966, F.S., for intermediate care facilities for persons with developmental disabilities.

Currently chapter 395, Florida Statutes, the statutory chapter governing licensure and regulation of hospitals, does not include provisions for imposing a receivership on any hospitals.

Receivership is initiated through a petition to the court requesting that a qualified person, receiver, be given authority over all operations of a facility for a specified period. The Agency is responsible for providing a list of qualified receivers to the court for selection of a receiver. The receiver is charged with using the resources available to the facility to resolve the problems that have resulted in the dangerous or unhealthy conditions; either allowing for an orderly transition to a change of ownership or to closure. The receiver must report to the court and provide evidence to the court that the facility is operating satisfactorily, or request that the period of receivership be extended.

Receivership is a form of bankruptcy in which a company can avoid liquidation by reorganizing with the help of a court-appointed trustee. Receivership takes place through a court order and is utilized only in exceptional circumstances and with or without the consent of the owner of the property. A court orders receivership to place property subject to dispute in a legal action under the control of an independent person known as a receiver. Receivership is an extraordinary remedy to preserve property during the time needed to prosecute a lawsuit, if a danger is present that such property will be dissipated or removed from the jurisdiction of the court if a receiver is not appointed.

Trust Funds for Receivership Proceedings for Failing Health Care Facilities
As amended the bill creates the Rural Hospital Patient Protection Trust Fund to provide funding for receivership for rural hospitals through a $1 fee on each discharge from a rural hospital. This mirrors statutory provisions for trust funds established in conjunction with current provisions for receivership proceedings for other types of facilities. According to information on discharges provided by the Agency for Health Care Administration, the total number of discharges from all rural hospitals for the 5.5 year period from 1/2000 to 6/2006 averaged only 57,682 per year. This would provide an average of $57,682 funding per year for any receiverships of rural hospitals.

BACKGROUND

PROBLEMS FACING RURAL HOSPITALS

While many rural hospitals have survived by shifting to outpatient services such as skilled nursing, home health and hospice, the shift has made them more vulnerable to changes in reimbursement and other policies as federal and state programs seek to constrain the increasing costs of health care.

Aging Facilities and Professional Shortages
Within the context of changing health care economics, small rural hospitals face several critical problems that include the need for capital improvements to many aging hospitals and the need to recruit and retain a skilled workforce. Many of America's small rural hospitals were built with the support of 1946-1970s era Hill-Burton Act funds. These facilities are collectively beginning to show their age and obsolescence. In a survey of rural hospitals conducted by the Florida Hospital Association, eight rural hospitals reported their facilities were 40-50 years old. Rural hospitals face a chronic and critical problem recruiting and retaining nurses, technicians, midlevel practitioners, and physicians.

Lack of Information Infrastructure
There is a growing need for telemedicine services between rural hospitals and specialists to provide remote consultation for treating individual patients. Many rural hospitals do not have full-time radiologists to interpret X-rays. Most rural hospital telemedicine now involves only telephone service and faxing to other physicians at hospitals that might receive patients transferred from rural hospitals to provide services not available in the rural settings. Most Florida health insurance does not provide compensation for telemedicine consultations.

Where telemedicine consults are available, it has been reported anecdotally that approximately 80 percent of patients can be successfully treated at the rural hospitals without incurring patient transfer costs. Rural clinics are often formally affiliated with larger hospitals that accept transfer patients with serious ailments.

Rural hospitals lack the technology and equipment to support the delivery and management of these health care services. They lack building wiring for networking and other resources typically employed for distance learning. To date:

- A majority of rural hospitals have implemented some form of automated billing, but very few have automated patient records.
- Many of the computer workstations in rural hospitals are not networked and billing and patient care records systems are generally not integrated.
- Most rural hospitals have no satellite or Instructional Television Fixed Service capability for receiving video signals for accessing continuing education training material.

EFFORTS TO ADDRESS THE PROBLEMS OF SMALL RURAL HOSPITALS

A 2001 report by the National Advisory Committee for Rural Hospitals offered several suggestions to address these problems, including:

- Incentive programs for nurses working in underserved rural areas to help alleviate nursing shortages.
- Training and technical assistance to rural providers as they try to keep up with reimbursement and regulatory demands.
- Careful analysis of the effects of proposed reimbursement and regulatory changes on small rural communities prior to enactment.
- Addressing sustainability for rural telemedicine applications through additional funding for site coordinators and/or communication charges.

Managed Care

Traditionally, improving access to health care services has been addressed by increasing payments to providers and creating special programs to recruit and retain health professionals. Even as these efforts continue, however, the underlying system of health care financing and delivery is changing across the entire health system—marked by the move to managed care and the rise of more integrated health care organizations. Most major health care purchasers are switching from fee-for-service payments to capitation and other risk-sharing payment methods, and policymakers in general are moving away from regulatory to more market-based strategies for containing costs. It appears that the development of provider networks and managed care systems holds some promise for strengthening the rural health care infrastructure and improving access to health care services.

Many rural providers perceive managed care organizations (MCOs) as a threat, because they:

- May impose more financial risk on rural providers than they are capable of bearing;
- May not make concessions for circumstances particular to rural areas (e.g., transportation barriers, larger caseloads for practitioners, and limited infrastructure in general); and
- May absorb most or all the new primary care practitioners and give them incentives to locate in urban and suburban areas, draining health care resources away from rural areas and exacerbate the shortage of primary care providers.

On the other hand, because many MCOs are large organizations with considerable resources, they have the potential to invest in building adequate rural health care delivery systems. They may enable rural providers to participate in more sophisticated medical management information systems. They

can provide a steady income stream via capitation and other contracts to physicians and hospitals, which may be especially welcome in more economically depressed areas. It has also been argued that MCOs can better use mid-level and non-physician practitioners than can independent providers. They may also improve access to relevant medical technologies by linking rural providers to urban health centers through telecommunications and mobile health units.

In this context, states need to consider the special effects on rural areas as they implement new regulations for managed care, such as rules for provider networks that bear insurance risk, and integrate rural network development into other initiatives, such as network demonstration projects with Medicaid managed care expansion.

FEDERAL PROGRAMS

Medicare Rural Hospital Flexibility Program

Beginning with the Balanced Budget Act of 1997 (Public Law 105-33), the U.S. Congress started a process designed to improve the financial viability of small, rural hospitals. The initial program was "fine-tuned" through provisions of the Balanced Budget Refinement Act of 1999 and the Benefits Improvement and Protection Act (BIPA) of 2000. Rural hospitals suffer not only from small, relatively poor patient populations but they have also been penalized by Medicare which provided service reimbursement rates lower than those provided to urban hospitals for the same services. Oftentimes, the reimbursement was for less than the actual cost of care, thereby actually costing the hospital money. This is especially important for rural hospitals since they have proportionally more Medicare patients than do urban hospitals. The Medicare Rural Hospital Flexibility Program was intended to rectify some of these imbalances. The program presented a new reimbursement category for rural hospitals, that of the Critical Access Hospital. This new type of hospital is an acute care facility that provides emergency, outpatient, and limited inpatient services.

Critical Access Hospitals may have no more than 15 acute care beds and another 10 "swing beds" (these are inpatient beds that may also be used for other services such as part of a Skilled Nursing Facility). Average annual length of stay for all inpatients must be 96 hours (4 days) or less. Emergency services must be available 24 hours per day, seven days per week. Certain other regulations must be followed concerning physical location, relations with larger, tertiary care hospitals, and credentialing and quality assurance procedures. In return, these hospitals will be reimbursed on a "reasonable cost" basis for inpatient, outpatient, and laboratory services delivered to Medicare patients. For small hospitals with significant numbers of Medicare patients this, at the very least, allows them to stop losing money on services delivered. The office oversees the conversion applications, financial feasibility studies; community needs assessments, and conversion of rural hospitals to Critical Access status.

The vast majority of CAHs are located in health professional shortage areas, are the only hospitals in the county, and are located in counties where the over-65 population is higher than the state average. The states with the largest number of CAHs are Kansas, Nebraska, Iowa, Texas, Minnesota, and Montana. Out of 31 rural hospitals in Florida, 12 are Critical Access Hospitals. The three North Florida hospitals currently in financial crisis are all Critical Access Hospitals.

The Medicare Rural Hospital Flexibility Program also contains a grant program, administered by the Federal Office of Rural Health Policy. Grants of up to $775,000 per state per year are provided to improve rural health systems with an emphasis on improving Emergency Medical Services. The office applies for, receives, and administers these grant funds.

Medicare and Medicaid Bonus Payments

In addition to the challenges facing rural hospitals, another issue limiting health care access in rural communities is the sparse number of physicians in practice in rural counties. The persistent shortage of primary care physicians in rural and underserved areas of the nation has become one of the most challenging health care policy issues facing medical educators and health care policymakers in the U.S. in the past half century. Incentives, both financial and personal, have combined to create a

modern-day physician workforce overloaded with specialists who choose to practice primarily in metropolitan and suburban markets. The ultimate consequence of this skewed distribution of physician location and services is a shortage of basic health care services for certain groups of the U.S. population, particularly in rural areas.

The federal government, recognizing the need for economic incentives to facilitate this process, has established several key programs that promote the provision of primary care services to those of greatest need. Of these, two programs involve bonus payments in the Medicare program for physicians practicing in Health Professional Shortage Areas and Physician Scarcity Areas.

Health Professional Shortage Areas Bonus Payments
The federal Health Professional Shortage Area designation identifies an area or population as having a shortage of dental, mental, and primary health care providers. Those designations are used to qualify for state and federal programs aimed at increasing primary care services to underserved areas and populations.

Among these programs is a ten percent bonus Medicare payment for providers practicing medicine in a Health Professional Shortage Area. The bonus is paid for all Medicare services provided in the shortage area and may be billed along with other incentives programs.

Physician Scarcity Areas Bonus Payments
The Medicare Modernization Act of 2003, §413(a), requires that a new 5 percent bonus payment be established and paid for services rendered by physicians in geographic areas designated as Physician Scarcity Areas. Under the program, physician scarcity designations are based on the lowest primary care and specialty care ratios of Medicare beneficiaries to active physicians in a particular county. Medicare will pay a 5 percent bonus on a quarterly basis based on where the service is performed and not on the address of the beneficiary. The bonus may be billed in conjunction with other bonus payments under Medicare.

Both of these Medicare bonus programs are authorized under the federal physician payment regulations found in 42 CFR 447.200 and 42 CFR 447.203. A similar bonus payment system in Medicaid would require a state plan amendment that clearly explains how the bonus payment is provided.

C. SECTION DIRECTORY:

Section 1. Amends s. 381.0405, F.S., Office of Rural Health to provide for rural health networks planning and technical assistance and establish a joint DOH and AHCA advisory council that will make recommendations on rural provider service networks.
Section 2. Amends s. 381.0406, F.S., Rural Health Networks, to reorganize and specify functions related to planning and coordination of service providers and remove requirements to provide health care services and establish a grant program to support network operations and rural infrastructure development.
Section 3. Amends s. 395.602(2), F.S., Rural Hospitals, to remove definitions for obsolete federal programs and amends the definition for "rural primary care hospitals" to continue to allow for smaller facilities that provide emergency medical care.
Section 4. Amends s. 395.603(1), F.S., relating to Deactivation of Hospital Beds, to remove provisions for obsolete federal programs.
Section 5. Amends s. 395.604, F.S., relating to Rural Primary Care Hospitals, to establish provisions for funding and support for very small rural primary care hospitals, including expedited CON review and certain exemptions.
Section 6. Amends s. 395.6061, F.S., relating to Rural Hospital Capital Improvement Grants, to clarify the purpose of the program, remove the requirement that all rural hospitals receive an equal grant amount of $100,000, regardless of need or purpose, include provisions for assistance to financially distressed rural hospitals, and specify criteria for awarding grants.
Section 7. Creates s. 395.6070, F.S., establishing provisions for rural hospital receivership.

Section 8. Creates s. 395.6071, F.S., establishing the Rural Hospital Patient Protection Trust Fund to provide funding for rural hospital receivership.
Section 9. Creates s. 408.7054, F.S., to establish the Rural Provider Service Network Development Program in AHCA, that will administer the rural hospital capital improvement program in s. 395.6061, F.S.; and the created Rural Provider Service Network Development Grant program.
Section 11. Amends s. 409.908, F.S., relating to Reimbursement of Medicaid Providers, to require a 10 percent bonus to physicians who have provider agreements with a rural health network.
Section 10 and Sections 12 and 13. Amend ss. 408.07(43), 409.9116, and 1009.65, F.S., to conform cross-references.
Section 14. Repeals s. 395.605, F.S., relating to an obsolete federal rural hospital program.
Section 15. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments below.

2. Expenditures:

   See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide increased funding to rural health care providers, including physicians, hospitals and provider service networks.

D. FISCAL COMMENTS:

Grant programs established in the bill are contingent on funding from General Revenure. According to the Department of Health, existing funding for current programs in 2005-2006 includes:

Office of Rural Health	$ 150,000	federal
Rural Health Networks	$ 500,000	state
Rural Hospital Capital Improvement Program	$ 3,500,000	state
Small Hospital Improvement Program (SHIP)	$ 177,460	federal
Medicare Rural Hospital Flexibility Program (FLEX)	$ 540,000	federal

In addition, some rural hospitals and some rural health networks receive funds that do not flow through the DOH Office of Rural Health. State funds include Rural Hospital Disproportionate Share funds and member projects. Federal funds include Office of Rural Health Policy Grants for rural health outreach and network development. In addition, there are federal funds for bioterrorism.

As amended the bill creates the Rural Hospital Patient Protection Trust Fund to provide funding for receivership for rural hospitals, through a $1 fee on each discharge from rural hospitals similar to

provisions for receivership for other types of health care facilities. According to information on discharges provided by the Agency for Health Care Administration, the total number of discharges from all rural hospitals for the 5.5 years from 1/2000 to 6/2006 averaged only 57,682 per year. This would provide $57,682 funding per year for any receiverships of rural hospitals. See status of this provision in drafting comments, below.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The Department of Health and Agency for Health Care Administration have rule making authority to administer existing programs and specific authority is provided in the bill for new responsibilities.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 8 of the bill creates the Rural Hospital Patient Protection Trust Fund. This appears to put the bill in violation of s. 19(f)(1), Art. III of the State Constitution, which requires trust funds to be created in a separate bill for that purpose only.

Amendments are being drafted by the bill's sponsor to remove the receivership and related trust fund provisions from the bill, along with the fiscal impact related to the 10 percent Medicaid bonus to physicians, and to conform provisions of the bill to the Senate version.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the Health Care Regulation Committee adopted three amendments offered by Chairman Garcia, and reported the bill favorably as amended.

Amendment 1: Requires the advisory council to make recommendations on establishing Provider Service Networks in rural counties

Amendment 2: Clarifies that the purpose of the Rural Hospital Capital Improvement Grant program to:

- Assist hospitals in adapting to changes in delivery of care and funding;
- Assist financially distressed hospitals; and
- Ensure accountability for state funds.

Moves the Provider Service Network Development Grant program out of the Office of Health Statistics, to give ACHA flexibility in its use of existing resources and removes a required study.

Amendment 3: Establishes provisions for Rural Hospital Receivership and a trust fund to give AHCA options to keep a facility open to continue care, instead of having to close a failing facility by removing its license. These provisions mirror existing statutes for nursing homes, assisted living facilities, and facilities for persons with mental illness and developmental disabilities.

The analysis is drafted to the amended bill.

A bill to be entitled

An act relating to rural health care; amending s. 381.0405, F.S.; revising the purpose and functions of the Office of Rural Health in the Department of Health; requiring the Secretary of Health and the Secretary of Health Care Administration to appoint an advisory council to advise the office; providing for terms of office of the members of the advisory council; authorizing per diem and travel reimbursement for members of the advisory council; requiring the advisory council to work with certain stakeholders; requiring a report to the Governor and Legislature; amending s. 381.0406, F.S.; revising legislative findings and intent with respect to rural health networks; revising the definition of "rural health network"; providing additional functions of and requirements for membership in rural health networks; requiring rural health networks to submit rural health infrastructure development plans to the office by a specified date; revising provisions relating to the governance and organization of rural health networks; revising the services to be provided by provider members of rural health networks; requiring coordination among rural health networks and area health education centers, health planning councils, and regional education consortia; establishing a grant program for funding rural health networks; defining projects that may be funded through the grant program; requiring the department to establish rules governing rural health network grant

programs and performance standards; amending s. 395.602, F.S.; defining "critical access hospital"; revising and deleting definitions; amending s. 395.603, F.S.; deleting a requirement that the Agency for Health Care Administration adopt a rule relating to deactivation of rural hospital beds under certain circumstances; requiring that rural critical access hospitals maintain a certain number of actively licensed beds; amending s. 395.604, F.S.; removing emergency care hospitals and essential access community hospitals from certain licensure requirements; specifying certain special conditions for rural primary care hospitals; amending s. 395.6061, F.S.; specifying the purpose of the rural hospital capital improvement grant program; providing for grant management by the agency; modifying the conditions for receiving a grant; deleting a requirement for a minimum grant for every rural hospital; establishing an assistance program within the agency for financially distressed rural and critical access hospitals; providing purpose of the program; providing requirements for receiving certain assistance; requiring a participation agreement and providing for contents thereof; creating s. 395.6070, F.S.; authorizing the agency to petition for the appointment of a receiver for a rural hospital when certain conditions exist; providing for hearings and notice; providing qualification of a receiver and time limitations; providing duties of the agency; providing powers and duties of the receiver with respect to the

hospital and related contracts and the patients and their property; specifying liability of certain persons to pay a receiver for goods and services provided; providing that the receiver may petition to avoid certain contracts and specifying liabilities associated therewith; providing for compensation and liability of the receiver; providing for bond; providing conditions for termination of receivership; requiring an accounting to the court; providing liabilities of the owner, operator, and employees of a rural hospital placed in receivership; providing applicability of the Rural Hospital Patient Protection Trust Fund; creating s. 395.6071, F.S.; establishing the Rural Hospital Patient Protection Trust Fund; providing for funds collected to be used for specified purposes; providing for the expenditure of funds upon a declaration of local emergency; authorizing the agency to establish certain accounts for moneys received and for the disbursement thereof for certain purposes; providing limitations on expenditure of funds; providing for limited liability under certain circumstances; providing rulemaking authority to the agency; creating s. 408.7054, F.S.; establishing the Rural Provider Service Network Development Program; providing purposes and responsibilities; authorizing the agency to provide funding through a grant program for the establishment of rural provider service networks; providing eligibility requirements; authorizing preferential funding to certain providers; authorizing the agency to adopt rules; amending

s. 409.908, F.S.; requiring the agency to pay certain physicians a bonus for Medicaid physician services provided within a rural county; amending ss. 408.07, 409.9116, and 1009.65, F.S.; conforming cross-references; repealing s. 395.605, F.S., relating to the licensure of emergency care hospitals; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 381.0405, Florida Statutes, is amended to read:

381.0405 Office of Rural Health.--

(1) ESTABLISHMENT.--The Department of Health shall establish an Office of Rural Health, which shall assist rural health care providers in improving the health status and health care of rural residents of this state and assist rural health care providers in integrating their efforts. The Office of Rural Health shall coordinate its activities with rural health networks established under s. 381.0406, local health councils established under s. 408.033, the area health education center network established under ~~pursuant to~~ s. 381.0402, and ~~with~~ any appropriate research and policy development centers within universities that have state-approved medical schools. The Office of Rural Health may enter into a formal relationship with any center that designates the office as an affiliate of the center.

(2) PURPOSE.--The Office of Rural Health shall actively foster the provision of high-quality health care services in

rural areas and serve as a catalyst for improved health services to residents ~~citizens~~ in rural areas of the state.

(3) GENERAL FUNCTIONS.--The office shall:

(a) Integrate policies related to physician workforce, hospitals, public health, and state regulatory functions.

(b) Work with rural stakeholders in order to foster the development of strategic planning that addresses ~~Propose solutions to~~ problems affecting health care delivery in rural areas.

(c) Foster the expansion of rural health network service areas to include rural counties that are not served by a rural health network.

(d) ~~(c)~~ Seek grant funds from foundations and the Federal Government.

(e) Administer state grant programs for rural health networks.

(4) COORDINATION.--The office shall:

(a) Identify federal and state rural health programs and provide information and technical assistance to rural providers regarding participation in such programs.

(b) Act as a clearinghouse for collecting and disseminating information on rural health care issues, research findings on rural health care, and innovative approaches to the delivery of health care in rural areas.

(c) Foster the creation of regional health care systems that promote cooperation~~, rather than competition~~.

(d) Coordinate the department's rural health care activities, programs, and policies.

(e) Design initiatives to improve access to primary, acute, and emergency medical services and promote the coordination of such services in rural areas.

(f) Assume responsibility for state coordination of ~~the Rural Hospital Transition Grant Program, the Essential Access Community Hospital Program, and other~~ federal rural health care grant programs.

(5) TECHNICAL ASSISTANCE.--The office shall:

(a) Assist ~~Help~~ rural health care providers in recruiting ~~obtain~~ health care practitioners by promoting the location and relocation of health care practitioners in rural areas and promoting policies that create incentives for practitioners to serve in rural areas.

(b) Provide technical assistance to hospitals, community and migrant health centers, and other health care providers that serve residents in rural areas.

(c) Assist with the design of strategies to improve health care workforce recruitment and placement programs.

(d) Provide technical assistance to rural health networks in the formulation of their rural health infrastructure development plans.

(e) Provide links to best practices and other technical assistance resources on the office's Internet website.

(6) ADVISORY COUNCIL.--

(a) The Secretary of Health and the Secretary of Health Care Administration shall each appoint no more than five members with relevant health care operations management, practice, and policy experience to an advisory council to advise the office

regarding its responsibilities under this section and ss. 381.0406, 395.6061, and 395.6063. Members must be appointed for 4-year staggered terms and may be reappointed to a second term of office. Members shall serve without compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061. The council may appoint technical advisory teams as needed. The department shall provide staff and other administrative assistance reasonably necessary to assist the advisory council in carrying out its duties.

(b) The advisory council shall work with stakeholders to develop recommendations that address barriers and identify options for establishing provider networks in rural counties and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by February 1, 2007.

(7) ~~(6)~~ RESEARCH PUBLICATIONS AND SPECIAL STUDIES.--The office shall:

(a) Conduct policy and research studies.

(b) Conduct health status studies of rural residents.

(c) Collect relevant data on rural health care issues for use in department policy development.

(8) ~~(7)~~ APPROPRIATION.--The Legislature shall appropriate such sums as are necessary to support the Office of Rural Health.

Section 2. Section 381.0406, Florida Statutes, is amended to read:

381.0406 Rural health networks.--

(1) LEGISLATIVE FINDINGS AND INTENT.--

(a) The Legislature finds that, in rural areas, access to health care is limited and the quality of health care is negatively affected by inadequate financing, difficulty in recruiting and retaining skilled health professionals, and the ~~because of a~~ migration of patients to urban areas for general acute care and specialty services.

(b) The Legislature further finds that the efficient and effective delivery of health care services in rural areas requires:

1. The integration of public and private resources.

2. The adoption of quality improvement and cost-effectiveness measures. ~~and~~

3. The coordination of health care providers.

(c) The Legislature further finds that the availability of a continuum of quality health care services, including preventive, primary, secondary, tertiary, and long-term care, is essential to the economic and social vitality of rural communities.

(d) The Legislature further finds that health care providers in rural areas are not prepared for market changes such as the introduction of managed care and capitation reimbursement methodologies into health care services.

(e) ~~(d)~~ The Legislature further finds that the creation of rural health networks can help to alleviate these problems. Rural health networks shall act in the broad public interest and, to the extent possible, seek to improve the accessibility, quality, and cost-effectiveness of rural health care by planning and coordinating ~~be structured to provide~~ a continuum of quality

health care services for rural residents through the cooperative efforts of rural health network members and other health care providers.

~~(e) The Legislature further finds that rural health networks shall have the goal of increasing the utilization of statutory rural hospitals for appropriate health care services whenever feasible, which shall help to ensure their survival and thereby support the economy and protect the health and safety of rural residents.~~

(f) Finally, the Legislature finds that rural health networks may serve as "laboratories" to determine the best way of organizing rural health services, to move the state closer to ensuring that everyone has access to health care, and to promote cost containment efforts. The ultimate goal of rural health networks shall be to ensure that quality health care is available and efficiently delivered to all persons in rural areas.

(2) DEFINITIONS.--

(a) "Rural" means an area with a population density of fewer ~~less~~ than 100 individuals per square mile or an area defined by the most recent United States Census as rural.

(b) "Health care provider" means any individual, group, or entity, public or private, that provides health care, including~~:~~ preventive health care, primary health care, secondary and tertiary health care, in-hospital health care, public health care, and health promotion and education.

(c) "Rural health network" or "network" means a nonprofit legal entity whose principal place of business is in a rural

county, whose members consist ~~consisting~~ of rural and urban health care providers and others, and that is established ~~organized~~ to plan the delivery of ~~and deliver~~ health care services on a cooperative basis in a rural area~~, except for some secondary and tertiary care services~~.

(3) NETWORK MEMBERSHIP.--

(a) Because each rural area is unique, with a different health care provider mix, health care provider membership may vary, but all networks shall include members that provide public health care, comprehensive primary care, emergency medical care, and acute inpatient care.

(b) Federally qualified health centers, emergency medical services providers, and county health departments are expected to participate in rural health networks in the areas in which their patients reside or receive services.

~~(4) Network membership shall be available to all health care providers, provided that they render care to all patients referred to them from other network members, comply with network quality assurance and risk management requirements, abide by the terms and conditions of network provider agreements in paragraph (11)(c), and provide services at a rate or price equal to the rate or price negotiated by the network.~~

(4)~~(5)~~ NETWORK SERVICE AREAS.--Network service areas are ~~do~~ not required ~~need~~ to conform to local political boundaries or state administrative district boundaries. The geographic area of one rural health network, however, may not overlap the territory of any other rural health network.

(5)~~(6)~~ NETWORK FUNCTIONS.--Networks shall:

(a) Seek to develop linkages with ~~provisions for referral to~~ tertiary inpatient care, specialty physician care, and ~~to~~ other services that are not available in rural service areas.

(b) ~~(7)~~ Seek to ~~Networks shall~~ make ~~available~~ health promotion, disease prevention, and primary care services accessible to all residents in order to improve the health status of rural residents and to contain health care costs.

~~(8) Networks may have multiple points of entry, such as through private physicians, community health centers, county health departments, certified rural health clinics, hospitals, or other providers; or they may have a single point of entry.~~

(c) ~~(9)~~ Encourage members through training and educational programs to adopt standards of care, promote the evidence-based practice of medicine ~~Networks shall establish standard protocols, coordinate and share patient records~~, and develop patient information exchange systems in order to improve the quality of and access to services.

(d) Develop quality improvement programs and train network members and other health care providers in the implementation of such programs.

(e) Develop disease management systems and train network members and other health care providers in the implementation of such systems.

(f) Promote outreach to areas with a high need for services.

(g) Seek to develop community care alternatives for elders who would otherwise be placed in nursing homes.

(h) Emphasize community care alternatives for persons with

mental health and substance abuse disorders who are at risk of being admitted to an institution.

(i) Develop a rural health infrastructure development plan for an integrated system of care that is responsive to the unique local health care needs and the area health care services market. Each rural health infrastructure development plan must address strategies to improve access to specialty care, train health care providers to use standards of care for chronic illness, develop disease management capacity, and link to state and national quality improvement initiatives. The initial development plan must be submitted to the Office of Rural Health for review and comment no later than July 1, 2007; thereafter, the plan must be updated and submitted to the Office of Rural Health every 3 years.

~~(10) Networks shall develop risk management and quality assurance programs for network providers.~~

(6) ~~(11)~~ NETWORK GOVERNANCE AND ORGANIZATION.--

(a) Networks shall be incorporated under the laws of the state.

(b) Each network ~~Networks~~ shall have a board of directors that derives membership from local government, health care providers, businesses, consumers, and others.

~~(c) Network boards of directors shall have the responsibility of determining the content of health care provider agreements that link network members. The agreements shall specify:~~

~~1. Who provides what services.~~

~~2. The extent to which the health care provider provides~~

~~care to persons who lack health insurance or are otherwise unable to pay for care.~~

~~3. The procedures for transfer of medical records.~~

~~4. The method used for the transportation of patients between providers.~~

~~5. Referral and patient flow including appointments and scheduling.~~

~~6. Payment arrangements for the transfer or referral of patients.~~

(c) ~~(d)~~ There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member of a network board of directors, or its employees or agents, for any lawful action taken by them in the performance of their administrative powers and duties under this subsection.

(7) ~~(12)~~ NETWORK PROVIDER MEMBER SERVICES.--

(a) Networks, to the extent feasible, shall seek to develop services that provide for a continuum of care for all residents ~~patients~~ served by the network. Each network shall recruit members that can provide ~~include the following core services: disease prevention, health promotion,~~ comprehensive primary care, emergency medical care, and acute inpatient care. Each network shall seek to ensure the availability of comprehensive maternity care, including prenatal, delivery, and postpartum care for uncomplicated pregnancies~~, either directly, by contract, or through referral agreements~~. Networks shall, to the extent feasible, develop local services and linkages among health care providers to ~~also~~ ensure the availability of the following services ~~within the specified timeframes, either~~

~~directly, by contract, or through referral agreements~~:

~~1. Services available in the home.~~

1.~~a.~~ Home health care.

2.~~b.~~ Hospice care.

~~2. Services accessible within 30 minutes travel time or less.~~

3.~~a.~~ Emergency medical services, including advanced life support, ambulance, and basic emergency room services.

4.~~b.~~ Primary care, including~~.~~

~~c.~~ prenatal and postpartum care for uncomplicated pregnancies.

5.~~d.~~ Community-based services for elders, such as adult day care and assistance with activities of daily living.

6.~~e.~~ Public health services, including communicable disease control, disease prevention, health education, and health promotion.

7.~~f.~~ Outpatient mental health ~~psychiatric~~ and substance abuse services.

~~3. Services accessible within 45 minutes travel time or less.~~

8.~~a.~~ Hospital acute inpatient care for persons whose illnesses or medical problems are not severe.

9.~~b. Level I obstetrical care, which is~~ Labor and delivery care for low-risk patients.

10.~~c.~~ Skilled nursing services and~~,~~ long-term care, including nursing home care.

(b) Networks shall seek to foster linkages with out-of-area services to the extent feasible to ensure the availability

of:

~~d. Dialysis.~~

~~e. Osteopathic and chiropractic manipulative therapy.~~

~~4. Services accessible within 2 hours travel time or less.~~

1.~~a.~~ Specialist physician care.

2.~~b.~~ Hospital acute inpatient care for severe illnesses and medical problems.

3.~~c. Level II and III obstetrical care, which is~~ Labor and delivery care for high-risk patients and neonatal intensive care.

4.~~d.~~ Comprehensive medical rehabilitation.

5.~~e.~~ Inpatient mental health ~~psychiatric~~ and substance abuse services.

6.~~f.~~ Magnetic resonance imaging, lithotripter treatment, oncology, advanced radiology, and other technologically advanced services.

~~g. Subacute care.~~

(8) COORDINATION WITH OTHER ENTITIES.--

(a) Area health education centers, health planning councils, and regional education consortia are expected to participate in the rural health networks' preparation of rural health infrastructure development plans. The Department of Health may require a written memorandum of agreement between a network and an area health education center or health planning council.

(b) Rural health networks shall initiate activities, in coordination with area health education centers, to carry out the objectives of the adopted development plan, including

continuing education for health care practitioners performing functions such as disease management, continuous quality improvement, telemedicine, distance learning, and the treatment of chronic illness using standards of care. For the purposes of this section, the term "telemedicine" means the use of telecommunications to deliver or expedite the delivery of health care services.

(c) Health planning councils shall support the preparation of rural health infrastructure development plans through data collection and analysis in order to assess the health status of area residents and the capacity of local health services.

(d) Regional education consortia that have the technology available to assist rural health networks in establishing systems for exchange of patient information and distance learning shall provide technical assistance upon the request of a rural health network.

~~(b) Networks shall actively participate with area health education center programs, whenever feasible, in developing and implementing recruitment, training, and retention programs directed at positively influencing the supply and distribution of health care professionals serving in, or receiving training in, network areas.~~

~~(c) As funds become available, networks shall emphasize community care alternatives for elders who would otherwise be placed in nursing homes.~~

~~(d) To promote the most efficient use of resources, networks shall emphasize disease prevention, early diagnosis and treatment of medical problems, and community care alternatives~~

~~for persons with mental health and substance abuse disorders who are at risk to be institutionalized.~~

(e) ~~(13) TRAUMA SERVICES.--~~In those network areas that ~~which~~ have an established trauma agency approved by the Department of Health, the network shall seek the participation of that trauma agency ~~must be a participant in the network~~. Trauma services provided within the network area must comply with s. 395.405.

(9) ~~(14)~~ NETWORK FINANCING.--

(a) Networks may use all sources of public and private funds to support network activities. ~~Nothing in this section prohibits networks from becoming managed care providers.~~

(b) The Department of Health shall establish a grant program to provide funding to support the administrative cost of operating and developing rural health networks. Rural health networks may qualify for funding provided through:

1. Network operations grants to support development of a rural health infrastructure development plan in a network service area and to support network functions identified in subsection (5).

2. Rural health infrastructure development grants to support the development of clinical and administrative infrastructure in the following priority areas:

a. Formation of joint contracting entities composed of rural physicians, rural hospitals, and other rural providers.

b. Establishing disease management programs that meet Medicaid requirements.

c. Establishing regional quality improvement programs

involving physicians and hospitals consistent with state and national initiatives.

d. Establishing specialty networks connecting rural primary care physicians and urban specialists.

e. Developing regional broadband telecommunications systems with the capacity to share patient information in a secure network.

f. Telemedicine and distance learning capacity.

~~(15) NETWORK IMPLEMENTATION.--As funds become available, networks shall be developed and implemented in two phases.~~

~~(a) Phase I shall consist of a network planning and development grant program. Planning grants shall be used to organize networks, incorporate network boards, and develop formal provider agreements as provided for in this section. The Department of Health shall develop a request-for-proposal process to solicit grant applications.~~

~~(b) Phase II shall consist of network operations. As funds become available, certified networks shall be eligible to receive grant funds to be used to help defray the costs of network infrastructure development, patient care, and network administration. Infrastructure development includes, but is not limited to: recruitment and retention of primary care practitioners; development of preventive health care programs; linkage of urban and rural health care systems; design and implementation of automated patient records, outcome measurement, quality assurance, and risk management systems; establishment of one-stop service delivery sites; upgrading of medical technology available to network providers; enhancement~~

~~of emergency medical systems; enhancement of medical transportation; and development of telecommunication capabilities. A Phase II award may occur in the same fiscal year as a Phase I award.~~

~~(16) CERTIFICATION.--For the purpose of certifying networks that are eligible for Phase II funding, the Department of Health shall certify networks that meet the criteria delineated in this section and the rules governing rural health networks.~~

(10) ~~(17)~~ RULES.--The Department of Health shall establish rules that govern the creation ~~and certification~~ of networks, the provision of grant funds, and the establishment of performance standards ~~including establishing outcome measures~~ for networks.

Section 3. Subsection (2) of section 395.602, Florida Statutes, is amended to read:

395.602 Rural hospitals.--

(2) DEFINITIONS.--As used in this part:

(a) "Critical access hospital" means a hospital that meets the definition of rural hospital in paragraph (d) and meets the requirements for reimbursement by Medicare and Medicaid under 42 C.F.R. ss. 485.601-485.647. ~~"Emergency care hospital" means a medical facility which provides:~~

~~1. Emergency medical treatment; and~~

~~2. Inpatient care to ill or injured persons prior to their transportation to another hospital or provides inpatient medical care to persons needing care for a period of up to 96 hours. The 96-hour limitation on inpatient care does not apply to respite,~~

~~skilled nursing, hospice, or other nonacute care patients.~~

~~(b) "Essential access community hospital" means any facility which:~~

~~1. Has at least 100 beds;~~

~~2. Is located more than 35 miles from any other essential access community hospital, rural referral center, or urban hospital meeting criteria for classification as a regional referral center;~~

~~3. Is part of a network that includes rural primary care hospitals;~~

~~4. Provides emergency and medical backup services to rural primary care hospitals in its rural health network;~~

~~5. Extends staff privileges to rural primary care hospital physicians in its network; and~~

~~6. Accepts patients transferred from rural primary care hospitals in its network.~~

(b) ~~(c)~~ "Inactive rural hospital bed" means a licensed acute care hospital bed, as defined in s. 395.002(14), that is inactive in that it cannot be occupied by acute care inpatients.

(c) ~~(d)~~ "Rural area health education center" means an area health education center (AHEC), as authorized by Pub. L. No. 94-484, that ~~which~~ provides services in a county with a population density of no greater than 100 persons per square mile.

(d) ~~(e)~~ "Rural hospital" means an acute care hospital licensed under this chapter, having 100 or fewer licensed beds and an emergency room, that ~~which~~ is:

1. The sole provider within a county with a population density of no greater than 100 persons per square mile;

2. An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, that ~~which~~ is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other acute care hospital within the same county;

3. A hospital supported by a tax district or subdistrict whose boundaries encompass a population of 100 persons or fewer per square mile;

4. A hospital in a constitutional charter county with a population of over 1 million persons that has imposed a local option health service tax pursuant to law and in an area that was directly impacted by a catastrophic event on August 24, 1992, for which the Governor of Florida declared a state of emergency pursuant to chapter 125, and has 120 beds or fewer ~~less~~ that serves an agricultural community with an emergency room utilization of no less than 20,000 visits and a Medicaid inpatient utilization rate greater than 15 percent;

5. A hospital with a service area that has a population of 100 persons or fewer per square mile. As used in this subparagraph, the term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from the hospital inpatient discharge database in the State Center for Health Statistics at the Agency for Health Care Administration; or

6. A hospital designated as a critical access hospital, as defined in s. 408.07(15).

Population densities used in this paragraph must be based upon the most recently completed United States census. A hospital that received funds under s. 409.9116 for a quarter beginning no later than July 1, 2002, is deemed to have been and shall continue to be a rural hospital from that date through June 30, 2012, if the hospital continues to have 100 or fewer licensed beds and an emergency room, or meets the criteria of subparagraph 4. An acute care hospital that has not previously been designated as a rural hospital and that meets the criteria of this paragraph shall be granted such designation upon application, including supporting documentation to the Agency for Health Care Administration.

(e) ~~(f)~~ "Rural primary care hospital" means any facility that ~~meeting the criteria in paragraph (e) or s. 395.605 which~~ provides:

1. Twenty-four-hour emergency medical care;

2. Temporary inpatient care for periods of 96 ~~72~~ hours or less to patients requiring stabilization before discharge or transfer to another hospital. The 96-hour ~~72-hour~~ limitation does not apply to respite, skilled nursing, hospice, or other nonacute care patients; and

3. Has at least ~~no more than~~ six licensed acute care inpatient beds.

(f) ~~(g)~~ "Swing-bed" means a bed that ~~which~~ can be used interchangeably as either a hospital, skilled nursing facility (SNF), or intermediate care facility (ICF) bed pursuant to 42 C.F.R. parts 405, 435, 440, 442, and 447.

Section 4. Subsection (1) of section 395.603, Florida

Statutes, is amended to read:

395.603 Deactivation of general hospital beds; rural hospital impact statement.--

(1) ~~The agency shall establish, by rule, a process by which~~ A rural hospital, as defined in s. 395.602, that ~~seeks licensure as a rural primary care hospital or as an emergency care hospital, or~~ becomes a certified rural health clinic as defined in Pub. L. No. 95-210~~,~~ or becomes a primary care program such as a county health department, community health center, or other similar outpatient program that provides preventive and curative services~~,~~ may deactivate general hospital beds. A rural critical access hospital ~~Rural primary care hospitals and emergency care hospitals~~ shall maintain the number of actively licensed general hospital beds necessary for the facility to be certified for Medicare reimbursement. Hospitals that discontinue inpatient care to become rural health care clinics or primary care programs shall deactivate all licensed general hospital beds. All hospitals, clinics, and programs with inactive beds shall provide 24-hour emergency medical care by staffing an emergency room. Providers with inactive beds shall be subject to the criteria in s. 395.1041. The agency shall specify in rule requirements for making 24-hour emergency care available. Inactive general hospital beds shall be included in the acute care bed inventory, maintained by the agency for certificate-of-need purposes, for 10 years from the date of deactivation of the beds. After 10 years have elapsed, inactive beds shall be excluded from the inventory. The agency shall, at the request of the licensee, reactivate the inactive general beds upon a

showing by the licensee that licensure requirements for the inactive general beds are met.

Section 5. Section 395.604, Florida Statutes, is amended to read:

395.604 ~~Other~~ Rural primary care hospitals ~~hospital programs~~.--

(1) The agency may license rural primary care hospitals subject to federal approval for participation in the Medicare and Medicaid programs. Rural primary care hospitals shall be treated in the same manner as ~~emergency care hospitals and~~ rural hospitals with respect to ss. ~~395.605(2)-(8)(a),~~ 408.033(2)(b)3.~~,~~ and 408.038.

~~(2) The agency may designate essential access community hospitals.~~

(2)~~(3)~~ The agency may adopt licensure rules for rural primary care hospitals ~~and essential access community hospitals~~. Such rules must conform to s. 395.1055.

(3) For the purpose of Medicaid swing-bed reimbursement pursuant to the Medicaid program, the agency shall treat rural primary care hospitals in the same manner as rural hospitals.

(4) For the purpose of participation in the Medical Education Reimbursement and Loan Repayment Program as defined in s. 1009.65 or other loan repayment or incentive programs designed to relieve medical workforce shortages, the department shall treat rural primary care hospitals in the same manner as rural hospitals.

(5) For the purpose of coordinating primary care services described in s. 154.011(1)(c)10., the department shall treat

rural primary care hospitals in the same manner as rural hospitals.

(6) Rural hospitals that make application under the certificate-of-need program to be licensed as rural primary care hospitals shall receive expedited review as defined in s. 408.032. Rural primary care hospitals seeking relicensure as acute care general hospitals shall also receive expedited review.

(7) Rural primary care hospitals are exempt from certificate-of-need requirements for home health and hospice services and for swing beds in a number that does not exceed one-half of the facility's licensed beds.

(8) Rural primary care hospitals shall have agreements with other hospitals, skilled nursing facilities, home health agencies, and providers of diagnostic-imaging and laboratory services that are not provided on site but are needed by patients.

~~(4) The department may seek federal recognition of emergency care hospitals authorized by s. 395.605 under the essential access community hospital program authorized by the Omnibus Budget Reconciliation Act of 1989.~~

Section 6. Section 395.6061, Florida Statutes, is amended to read:

395.6061 Rural hospital capital improvement.--There is established a rural hospital capital improvement grant program.

(1)(a) The purpose of the program is to provide targeted funding to rural hospitals to enable them to adapt to changes in health care delivery and funding and address disparities in

rural health care by:

1. Assisting in the development of needed infrastructure.

2. Assisting financially distressed rural hospitals.

3. Ensuring accountability for state and federal funding.

(b) The rural hospital capital improvement grant program includes technical assistance and grants managed by the agency.

(2) ~~(1)~~ A rural hospital as defined in s. 395.602 may apply to the agency ~~department~~ for a capital improvement grant to acquire, repair, improve, or upgrade systems, facilities, or equipment. The grant application must provide information that includes:

(a) A statement indicating the problem the rural hospital proposes to solve with the grant funds.~~;~~

(b) The strategy proposed to resolve the problem.~~;~~

(c) The organizational structure, financial system, and facilities that are essential to the proposed solution.~~;~~

(d) The projected longevity of the proposed solution after the grant funds are expended.~~;~~

~~(e) Evidence of participation in a rural health network as defined in s. 381.0406;~~

(e) ~~(f)~~ Evidence that the rural hospital has difficulty in obtaining funding or that funds available for the proposed solution are inadequate.~~;~~

(f) ~~(g)~~ Evidence that the grant funds will assist in maintaining or returning the hospital to an economically stable condition or enable the transition to the status of rural primary care hospital or that any plan for closure of the hospital or realignment of services will involve development of

innovative alternatives for the provision of needed ~~discontinued~~ services.~~,~~

(g)~~(h)~~ Evidence of a satisfactory record-keeping system to account for grant fund expenditures within the rural county.~~,~~

(h)~~(i)~~ ~~A rural health network plan that includes a description of how the plan was developed, the goals of the plan, the links with existing health care providers under the plan,~~ Indicators quantifying the ~~hospital's~~ financial status ~~well-being~~, measurable outcome targets, and ~~the~~ current physical and operational condition of the hospital.

~~(2) Each rural hospital as defined in s. 395.602 shall receive a minimum of $100,000 annually, subject to legislative appropriation, upon application to the Department of Health, for projects to acquire, repair, improve, or upgrade systems, facilities, or equipment.~~

(3) ~~Any remaining funds shall annually be disbursed to rural hospitals in accordance with this section.~~ The agency ~~Department of Health~~ shall establish, by rule, criteria for awarding grants ~~for any remaining funds~~, which must be used exclusively for the support and assistance of rural hospitals as defined in s. 395.602, including criteria relating to the level of charity ~~uncompensated~~ care rendered by the hospital, the financial status of the hospital, the performance standards of the hospital ~~the participation in a rural health network as defined in s. 381.0406~~, and the proposed use of the grant by the rural hospital to resolve a specific problem. Up to 30 percent of rural hospital capital improvement funds may be allocated to assist financially distressed rural hospitals that meet the

requirements of this subsection. The agency ~~department~~ must consider any information submitted in an application for the grants in accordance with subsection (2) ~~(1)~~ in determining eligibility for and the amount of the grant~~, and none of the individual items of information by itself may be used to deny grant eligibility~~.

(4) Financially distressed rural hospitals and critical access hospitals that have an annual occupancy rate of less than 30 percent may receive preferential assistance under the capital improvement grant program to provide planning, management, and financial support. To receive this assistance the hospital must:

(a) Provide additional information that includes:

1. A statement of support from the board of directors of the hospital, the county commission, and the city commission.

2. Evidence that the rural hospital and the community have difficulty obtaining funding or that funds available for the proposed solution are inadequate.

(b) Agree to be bound by the terms of a participation agreement with the agency, which may include:

1. The appointment of a health care expert under contract with the agency to analyze and monitor the hospital operations during the period of distress.

2. The establishment of minimum standards for the education and experience of the managers and administrators of the hospital.

3. The oversight and monitoring of a strategic plan to restore the hospital to an economically stable condition or transition to an alternative means to provide services.

4. The establishment of a board orientation and development program.

5. The approval of any facility relocation plans.

(5) ~~(4)~~ The agency ~~department~~ shall ensure that the funds are used solely for the purposes specified in this section. The total grants awarded pursuant to this section shall not exceed the amount appropriated for this program.

Section 7. Section 395.6070, Florida Statutes, is created to read:

395.6070 Rural hospital receivership proceedings.--

(1) As an alternative to or in conjunction with an injunctive proceeding, the agency may petition a court of competent jurisdiction for the appointment of a receiver for a rural hospital, as defined by s. 408.07, when any of the following conditions exist:

(a) A person is operating a hospital without a license and refuses to make application for a license as required by chapter 395.

(b) The agency determines that conditions exist in the hospital that present an imminent danger to the health, safety, or welfare of the patients in the hospital or a substantial probability that death or serious physical harm would result therefrom.

(c) The licensee cannot meet its financial obligation for providing food, shelter, care, and utilities. Evidence such as the issuance of bad checks or an accumulation of delinquent bills for such items as personnel salaries, food, drugs, or utilities shall constitute prima facie evidence that the

ownership of the hospital lacks the financial ability to operate the hospital.

(2) Petitions for receivership shall take precedence over other court business unless the court determines that some other pending proceeding, having similar statutory precedence, shall have priority. A hearing shall be conducted within 5 days after the filing of the petition, at which time all interested parties shall have the opportunity to present evidence pertaining to the petition. The agency shall notify the owner or administrator of the hospital named in the petition of the filing of the petition and the date set for the hearing. The court may grant the petition only upon finding that the health, safety, or welfare of patients of the hospital would be threatened if a condition existing at the time the petition was filed is permitted to continue. A receiver may not be appointed when the owner or administrator, or a representative of the owner or administrator, is not present at the hearing on the petition, unless the court determines that one or more of the conditions in subsection (1) exist and that the hospital owner or administrator cannot be found, that all reasonable means of locating the owner or the administrator and notifying him or her of the petition and hearing have been exhausted, or that the owner or administrator, after notification of the hearing, chooses not to attend. After such findings, the court may appoint any person qualified by education, training, or experience to carry out the responsibilities of a receiver pursuant to this section, except that the court may not appoint any owner or affiliate of a hospital that is in receivership.

The receiver may be selected from a list of persons qualified to act as receivers developed by the agency and presented to the court with each petition for receivership. Under no circumstances shall the agency or a designated agency employee be appointed as a receiver.

(3) The receiver shall make provisions for the continued health, safety, and welfare of all patients of the hospital and:

(a) Shall exercise those powers and perform those duties set out by the court.

(b) Shall operate the hospital in such a manner as to ensure safety and adequate health care for the patients.

(c) Shall take such action as is reasonably necessary to protect or conserve the assets or property of the hospital for which the receiver is appointed, or the proceeds from any transfer thereof, and may use them only in the performance of the powers and duties set forth in this section and by order of the court.

(d) May use the building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to patients and to any other persons receiving services from the hospital at the time the petition for receivership was filed. The receiver shall collect payments for all goods and services provided to patients or others during the period of the receivership at the same rate of payment charged by the owners at the time the petition for receivership was filed, or at a fair and reasonable rate otherwise approved by the court for private-pay patients. The receiver may apply to the agency for a rate increase for patients eligible for care under Title XIX of

the Social Security Act if the hospital is not receiving the maximum allowable payment and expenditures justify an increase in the rate.

(e) May correct or eliminate any deficiency in the structure or furnishings of the hospital that endangers the safety or health of patients while they remain in the hospital, provided the total cost of correction does not exceed $100,000. The court may order expenditures for this purpose in excess of $100,000 on application from the receiver after notice to the owner and a hearing.

(f) May let contracts and hire agents and employees to carry out the powers and duties of the receiver under this section.

(g) Shall honor all leases, mortgages, and secured transactions governing the building in which the hospital is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments that, in the case of a rental agreement, are for the use of the property during the period of receivership, or that, in the case of a purchase agreement, become due during the period of receivership.

(h) Shall have full power to direct, manage, and discharge employees of the hospital, subject to any contract rights they may have. The receiver shall pay employees at the rate of compensation, including benefits, approved by the court. A receivership does not relieve the owner of any obligation to employees made prior to the appointment of a receiver that has not been carried out by the receiver.

(i) Shall be entitled to take possession of all property or assets of patients that are in the possession of a hospital or its owner. The receiver shall preserve all property or assets and all patient records of which the receiver takes possession and shall provide for the prompt transfer of the property, assets, and records to the new placement of any transferred patient. An inventory list certified by the owner and receiver shall be made at the time the receiver takes possession of the hospital.

(4)(a) A person who is served with notice of an order of the court appointing a receiver and of the receiver's name and address shall be liable to pay the receiver for any goods or services provided by the receiver after the date of the order if the person would have been liable for the goods or services as supplied by the owner. The receiver shall give a receipt for each payment and shall keep a copy of each receipt on file. The receiver shall deposit accounts received in a separate account and shall use this account for all disbursements.

(b) The receiver may bring an action to enforce the liability created by paragraph (a).

(c) A payment to the receiver of any sum owing to the hospital or its owner shall discharge any obligation to the hospital to the extent of the payment.

(5)(a) A receiver may petition the court that he or she not be required to honor any lease, mortgage, secured transaction, or other wholly or partially executory contract entered into by the owner of the hospital if the rent, price, or rate of interest required to be paid under the agreement was

substantially in excess of a reasonable rent, price, or rate of interest at the time the contract was entered into or if any material provision of the agreement was unreasonable when compared to contracts negotiated under similar conditions. Any relief in this form provided by the court shall be limited to the life of the receivership, unless otherwise determined by the court.

(b) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest which the receiver has obtained a court order to avoid under paragraph (a), and if the real estate or goods are necessary for the continued operation of the hospital under this section, the receiver may apply to the court to set a reasonable rental, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on the application within 15 days. The receiver shall send notice of the application to any known persons who own the property involved or mortgage holders at least 10 days prior to the hearing. Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or for possession of the goods or real estate subject to the lease, security interest, or mortgage involved by any person who received such notice, but the payment does not relieve the owner of the hospital of any liability for the difference between the amount paid by the receiver and the amount due under the original lease, security interest, or mortgage involved.

(6) The court shall set the compensation of the receiver,

which shall be considered a necessary expense of a receivership.

(7) A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts, or breach of fiduciary duty.

(8) The court may require a receiver to post a bond.

(9) The court may terminate a receivership when:

(a) The court determines that the receivership is no longer necessary because the conditions that gave rise to the receivership no longer exist; or

(b) All of the patients in the hospital have been transferred or discharged.

(10) Within 30 days after the termination of a receivership, unless this time period is extended by the court, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected and disbursed, and of the expenses of the receivership.

(11) Nothing in this section shall be deemed to relieve any owner, administrator, or employee of a hospital placed in receivership of any civil or criminal liability incurred, or of any duty imposed by law, by reason of acts or omissions of the owner, administrator, or employee prior to the appointment of a receiver; nor shall anything contained in this section be construed to suspend during the receivership any obligation of the owner, administrator, or employee for payment of taxes or other operating and maintenance expenses of the hospital, or of the owner, administrator, employee, or any other person for the payment of mortgages or liens. The owner shall retain the right

to sell or mortgage any hospital under receivership, subject to approval of the court that ordered the receivership. A licensee that is placed in receivership by the court is liable for all expenses and costs incurred by the Rural Hospital Patient Protection Trust Fund that are related to capital improvement and operating costs and are no more than 10 percent above the hospital's Medicaid rate and which occur as a result of the receivership.

Section 8. Section 395.6071, Florida Statutes, is created to read:

395.6071 Rural Hospital Patient Protection Trust Fund.--

(1) A Rural Hospital Patient Protection Trust Fund shall be established for the purpose of collecting and disbursing funds generated from a $1 fee assessed on each inpatient discharge from a rural hospital as defined in s. 408.07. Such funds shall be used for the continued operation of the hospital and transition to another owner. Such funds may be used for the purpose of paying for the appropriate alternate placement, care, and treatment of patients who are removed from a facility licensed under this part in which the agency determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the patients. If the agency determines that it is in the best interest of the health, safety, or security of the patients to provide for an orderly removal of the patients from the facility, the agency may use such funds to maintain and care for the patients in the facility pending removal and alternative placement. The maintenance and care of the patients shall be under the direction and control of

a receiver appointed pursuant to s. 395.6070. However, funds may be expended in an emergency upon the filing of a petition for a receiver, upon the declaration of a state of local emergency pursuant to s. 252.38(3)(a)5., or upon a duly authorized local order of evacuation of a facility by emergency personnel to protect the health and safety of the patients.

(2) The agency is authorized to establish for each facility, subject to intervention by the agency, a separate bank account for the deposit to the credit of the agency of any moneys received from the Rural Hospital Patient Protection Trust Fund or any other moneys received for the maintenance and care of patients in the facility, and the agency is authorized to disburse moneys from such account to pay obligations incurred for the purposes of this section. The agency is authorized to requisition moneys from the Rural Hospital Patient Protection Trust Fund in advance of an actual need for cash on the basis of an estimate by the agency of moneys to be spent under the authority of this section. Any bank account established under this section need not be approved in advance of its creation as required by s. 17.58, but shall be secured by depository insurance equal to or greater than the balance of such account or by the pledge of collateral security as provided in chapter 280. The agency shall notify the Chief Financial Officer of any account so established and shall make a quarterly accounting to the Chief Financial Officer for all moneys deposited in such account.

(3) Funds authorized under this section shall be expended on behalf of all patients transferred to an alternate placement,

at the usual and customary charges of the facility used for the alternate placement, provided no other source of private or public funding is available. However, such funds may not be expended on behalf of a patient who is eligible for Title XIX of the Social Security Act, if the alternate placement accepts Title XIX of the Social Security Act. Funds shall be used for maintenance and care of patients in a facility in receivership only to the extent private or public funds, including funds available under Title XIX of the Social Security Act, are not available or are not sufficient to adequately manage and operate the facility, as determined by the agency. The existence of the Rural Hospital Patient Protection Trust Fund shall not make the agency liable for the maintenance of any patient in any facility. The state shall be liable for the cost of alternate placement of patients removed from a deficient facility, or for the maintenance of patients in a facility in receivership, only to the extent that funds are available in the Rural Hospital Patient Protection Trust Fund.

(4) The agency is authorized to adopt rules pursuant to s. 120.53(1) and 120.54 necessary to implement this section.

Section 9. Section 408.7054, Florida Statutes, is created to read:

408.7054 Rural Provider Service Network Development Program.--

(1) There is established within the Agency for Health Care Administration the Rural Provider Service Network Development Program to support the implementation of provider service networks in rural counties of the state. The purpose of the

program is to assist in the establishment of the infrastructure needed for Medicaid reform relating to prepaid and at-risk reimbursement plans to improve access to quality health care in rural areas.

(2) The responsibilities of the program are to:

(a) Administer the rural hospital capital improvement grant program established under s. 395.6061.

(b) Administer the assistance program for financially distressed rural and critical access hospitals established under s. 395.6061(4).

(c) Administer the rural provider service network development grant program established in subsection (3).

(3) There is established a rural provider service network development grant program. The agency is authorized to provide funding through a grant program to entities seeking to establish rural provider service networks that have demonstrated an interest and have experience in organizing rural health care providers for this purpose.

(4) Entities eligible for rural provider service network development grants must:

(a) Have a written agreement signed by prospective members, 45 percent of whom must be providers in the targeted service area.

(b) Include all rural hospitals, at least one federally qualified health center, and one county health department located in the service area.

(c) Have a defined service area, 80 percent of which consists of rural counties.

(5) Each applicant for this funding shall provide the agency with a detailed written proposal that includes, at a minimum, a statement of need; a defined purpose; identification and explanation of the role of prospective partners; a signed memorandum of agreement or similar document attesting to the role of prospective partners; documented actions related to provider service network development; measurable objectives for the development of clinical and administrative infrastructure; a process of evaluation; and a process for developing a business plan and securing additional funding.

(6) The agency is authorized to grant preferential funding to a rural provider service network based on the number of rural counties within the network's proposed service area that are Medically Underserved Areas or Health Professional Shortage Areas as defined by the Health Resources Services Administration, Office of Rural Health Policy, and based on whether the provider service network has a principal place of business located in a rural county in the state.

(7) The agency is granted authority to develop rules pursuant to s. 120.53(1) and 120.54 necessary to implement this section.

Section 10. Subsection (43) of section 408.07, Florida Statutes, is amended to read:

408.07 Definitions.--As used in this chapter, with the exception of ss. 408.031-408.045, the term:

(43) "Rural hospital" means an acute care hospital licensed under chapter 395, having 100 or fewer licensed beds and an emergency room, and which is:

(a) The sole provider within a county with a population density of no greater than 100 persons per square mile;

(b) An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from another acute care hospital within the same county;

(c) A hospital supported by a tax district or subdistrict whose boundaries encompass a population of 100 persons or fewer per square mile;

(d) A hospital with a service area that has a population of 100 persons or fewer per square mile. As used in this paragraph, the term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from the hospital inpatient discharge database in the State Center for Health Statistics at the Agency for Health Care Administration; or

(e) A critical access hospital.

Population densities used in this subsection must be based upon the most recently completed United States census. A hospital that received funds under s. 409.9116 for a quarter beginning no later than July 1, 2002, is deemed to have been and shall continue to be a rural hospital from that date through June 30, 2012, if the hospital continues to have 100 or fewer licensed beds and an emergency room, or meets the criteria of s. 395.602(2)(d) ~~(e)~~4. An acute care hospital that has not

previously been designated as a rural hospital and that meets the criteria of this subsection shall be granted such designation upon application, including supporting documentation, to the Agency for Health Care Administration.

Section 11. Subsection (12) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.--Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent

or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(12)(a) A physician shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by the agency.

(b) The agency shall adopt a fee schedule, subject to any limitations or directions provided for in the General Appropriations Act, based on a resource-based relative value scale for pricing Medicaid physician services. Under this fee schedule, physicians shall be paid a dollar amount for each service based on the average resources required to provide the service, including, but not limited to, estimates of average physician time and effort, practice expense, and the costs of professional liability insurance. The fee schedule shall provide increased reimbursement for preventive and primary care services and lowered reimbursement for specialty services by using at least two conversion factors, one for cognitive services and another for procedural services. The fee schedule shall not increase total Medicaid physician expenditures unless moneys are available~~, and shall be phased in over a 2-year period beginning on July 1, 1994~~. The Agency for Health Care Administration shall seek the advice of a 16-member advisory panel in formulating and adopting the fee schedule. The panel shall consist of Medicaid physicians licensed under chapters 458 and 459 and shall be

composed of 50 percent primary care physicians and 50 percent specialty care physicians.

(c) Notwithstanding paragraph (b), reimbursement fees to physicians for providing total obstetrical services to Medicaid recipients, which include prenatal, delivery, and postpartum care, shall be at least $1,500 per delivery for a pregnant woman with low medical risk and at least $2,000 per delivery for a pregnant woman with high medical risk. However, reimbursement to physicians working in Regional Perinatal Intensive Care Centers designated pursuant to chapter 383, for services to certain pregnant Medicaid recipients with a high medical risk, may be made according to obstetrical care and neonatal care groupings and rates established by the agency. Nurse midwives licensed under part I of chapter 464 or midwives licensed under chapter 467 shall be reimbursed at no less than 80 percent of the low medical risk fee. The agency shall by rule determine, for the purpose of this paragraph, what constitutes a high or low medical risk pregnant woman and shall not pay more based solely on the fact that a caesarean section was performed, rather than a vaginal delivery. The agency shall by rule determine a prorated payment for obstetrical services in cases where only part of the total prenatal, delivery, or postpartum care was performed. The Department of Health shall adopt rules for appropriate insurance coverage for midwives licensed under chapter 467. Prior to the issuance and renewal of an active license, or reactivation of an inactive license for midwives licensed under chapter 467, such licensees shall submit proof of coverage with each application.

(d) Notwithstanding other provisions of this subsection, the agency shall pay physicians licensed under chapter 458 or chapter 459 who have a provider agreement with a rural health network as established in s. 381.0406 a 10-percent bonus over the Medicaid physician fee schedule for any physician service provided within the geographic boundary of a county defined as a rural county by the most recent United States Census.

Section 12. Subsection (6) of section 409.9116, Florida Statutes, is amended to read:

409.9116 Disproportionate share/financial assistance program for rural hospitals.--In addition to the payments made under s. 409.911, the Agency for Health Care Administration shall administer a federally matched disproportionate share program and a state-funded financial assistance program for statutory rural hospitals. The agency shall make disproportionate share payments to statutory rural hospitals that qualify for such payments and financial assistance payments to statutory rural hospitals that do not qualify for disproportionate share payments. The disproportionate share program payments shall be limited by and conform with federal requirements. Funds shall be distributed quarterly in each fiscal year for which an appropriation is made. Notwithstanding the provisions of s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(6) This section applies only to hospitals that were defined as statutory rural hospitals, or their successor-in-

interest hospital, prior to January 1, 2001. Any additional hospital that is defined as a statutory rural hospital, or its successor-in-interest hospital, on or after January 1, 2001, is not eligible for programs under this section unless additional funds are appropriated each fiscal year specifically to the rural hospital disproportionate share and financial assistance programs in an amount necessary to prevent any hospital, or its successor-in-interest hospital, eligible for the programs prior to January 1, 2001, from incurring a reduction in payments because of the eligibility of an additional hospital to participate in the programs. A hospital, or its successor-in-interest hospital, which received funds pursuant to this section before January 1, 2001, and which qualifies under s. 395.602(2) (d) ~~(e)~~, shall be included in the programs under this section and is not required to seek additional appropriations under this subsection.

Section 13. Paragraph (b) of subsection (2) of section 1009.65, Florida Statutes, is amended to read:

1009.65 Medical Education Reimbursement and Loan Repayment Program.--

(2) From the funds available, the Department of Health shall make payments to selected medical professionals as follows:

(b) All payments shall be contingent on continued proof of primary care practice in an area defined in s. 395.602(2) (d) ~~(e)~~, or an underserved area designated by the Department of Health, provided the practitioner accepts Medicaid reimbursement if eligible for such reimbursement. Correctional facilities, state

hospitals, and other state institutions that employ medical personnel shall be designated by the Department of Health as underserved locations. Locations with high incidences of infant mortality, high morbidity, or low Medicaid participation by health care professionals may be designated as underserved.

Section 14. Section 395.605, Florida Statutes, is repealed.

Section 15. This act shall take effect July 1, 2006.

Amendments to HB 7215 Rural Health Care

These amendments remove fiscal impacts from the bill and incorporate changes worked out with the Senate. The amendments preserve existing statutory provisions for Rural Hospital Capital Improvement grants and implementation of Rural Health Networks.

Amendment 1, lines 164-192

Conforms language on an advisory council, and requires the Office of Rural Health to report to the Legislature and make recommendations to improve rural health care delivery.

Amendment 2, lines 193-518

Replaces Section 2 of the bill to incorporate House and Senate consensus language on implementation of rural health networks. It includes provisions for performance standards and grants to improve rural health infrastructure.

Amendment 2a, to amendment 2 by Rep. Robaina, line 265

Requires Rural Health Networks to contract with Health Planning Councils to support preparation of rural health network development plans.

Amendment 3, lines 708-791

Restores existing provisions for Rural Hospital Capital Improvement Grants, including the minimum $100,000 support for each of the 30 rural hospitals in the state.

Amendment 4, lines 792-1056

Deletes sections 7 & 8 of the bill to remove provisions for receivership and the Trust Fund.

Amendment 5, lines 1091-1092

Removes language providing for the PSN grant program to administer the hospital capital improvement and financially distressed hospital programs and corrects a technical restriction on rural county participation in Rural Provider Service Network grants.

Amendment 6, lines 1153-1239

Removes the 10% bonus in Medicaid payments to rural physicians because of its fiscal impact.

Amendment 7, by Rep. Richardson, between 1295-1296

Establishes the Office of Minority Health in the Department of Health to address health disparities in the state, by coordinating existing efforts and promoting state and local initiatives.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 7215**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Council/Committee hearing bill: Health & Families Council

Representative(s) Garcia offered the following:

Amendment (with directory and title amendments)

Remove line(s) 164-192 and insert:

(6) ADVISORY COUNCIL.--The Secretary of Health and the Secretary of Health Care Administration shall each appoint no more than five members with relevant health care operations management, practice, and policy experience to an advisory council to advise the office regarding its responsibilities under this section and ss. 381.0406, 395.6061, and 395.6063. Members must be appointed for 4-year staggered terms and may be reappointed to a second term of office. Members shall serve without compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061. The council may appoint technical advisory teams as needed. The department shall provide staff and other administrative assistance reasonably necessary to assist the advisory council in carrying out its duties.

(7) REPORTS.--Beginning January 1, 2007, and annually thereafter, the Office of Rural Health shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the activities of the office, including the grants obtained or administered by the office and the status of rural health networks and rural hospitals in the state. The report must also include recommendations for improvements in health care delivery in rural areas of the state.

(8) ~~(6)~~ RESEARCH PUBLICATIONS AND SPECIAL STUDIES.--The office shall:

(a) Conduct policy and research studies.

(b) Conduct health status studies of rural residents.

(c) Collect relevant data on rural health care issues for use in department policy development.

(9) ~~(7)~~ APPROPRIATION.--The Legislature shall appropriate such sums as are necessary to support the Office of Rural Health.

========== T I T L E A M E N D M E N T ==========

Remove line(s) 10-11 and insert:

requiring a report to the Governor and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. **HB 7215**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Health & Families Council

Representative(s) Garcia offered the following:

Amendment (with directory and title amendments)

Remove line(s) 193-518 and insert:

Section 2. Section 381.0406, Florida Statutes, is amended to read:

381.0406 Rural health networks.--

(1) LEGISLATIVE FINDINGS AND INTENT.--

(a) The Legislature finds that, in rural areas, access to health care is limited and the quality of health care is negatively affected by inadequate financing, difficulty in recruiting and retaining skilled health professionals, and the ~~because of a~~ migration of patients to urban areas for general acute care and specialty services.

(b) The Legislature further finds that the efficient and effective delivery of health care services in rural areas requires:

1. The integration of public and private resources;

2. The introduction of innovative outreach methods;

3. The adoption of quality improvement and cost-effectiveness measures;

4. The organization of health care providers into joint contracting entities;

5. Establishing referral linkages;

6. The analysis of costs and services in order to prepare health care providers for prepaid and at-risk financing; and

7. The coordination of health care providers.

(c) The Legislature further finds that the availability of a continuum of quality health care services, including preventive, primary, secondary, tertiary, and long-term care, is essential to the economic and social vitality of rural communities.

(d) The Legislature further finds that health care providers in rural areas are not prepared for market changes such as the introduction of managed care and capitation-reimbursement methodologies into health care services.

(e) ~~(d)~~ The Legislature further finds that the creation of rural health networks can help to alleviate these problems. Rural health networks shall act in the broad public interest and, to the extent possible, seek to improve the accessibility, quality, and cost-effectiveness of rural health care by planning, developing, coordinating, and providing ~~be structured to provide~~ a continuum of quality health care services for rural residents through the cooperative efforts of rural health network members and other health care providers.

(f) ~~(e)~~ The Legislature further finds that rural health networks shall have the goal of increasing the financial stability of statutory rural hospitals by linking rural hospital services to other services in a continuum of health care

services and by increasing the utilization of statutory rural hospitals whenever ~~for~~ appropriate ~~health care services whenever feasible, which shall help~~ to ~~ensure their survival and thereby~~ support the economy and protect the health and safety of rural residents.

(g) ~~(f)~~ Finally, the Legislature finds that rural health networks may serve as "laboratories" to determine the best way of organizing rural health services and linking to out-of-area services that are not available locally in order~~,~~ to move the state closer to ensuring that everyone has access to health care~~,~~ and to promote cost containment efforts. The ultimate goal of rural health networks shall be to ensure that quality health care is available and efficiently delivered to all persons in rural areas.

(2) DEFINITIONS.--

(a) "Rural" means an area having ~~with~~ a population density of fewer ~~less~~ than 100 individuals per square mile or an area defined by the most recent United States Census as rural.

(b) "Health care provider" means any individual, group, or entity, public or private, which ~~that~~ provides health care, including~~:~~ preventive health care, primary health care, secondary and tertiary health care, hospital ~~in hospital~~ health care, public health care, and health promotion and education.

(c) "Rural health network" or "network" means a nonprofit legal entity, whose members consist ~~consisting~~ of rural and urban health care providers and others, and which ~~that~~ is established ~~organized~~ to plan, develop, organize, and deliver health care services on a cooperative basis in a rural area~~,~~ ~~except for some secondary and tertiary care services~~.

(3) NETWORK MEMBERSHIP.--

(a) Because each rural area is unique, with a different health care provider mix, health care provider membership may vary, but all networks shall include members that provide health promotion and disease-prevention services, public health services, comprehensive primary care, emergency medical care, and acute inpatient care.

(b) Each county health department shall be a member of the rural health network whose service area includes the county in which the county health department is located. Federally qualified health centers and emergency medical services providers are encouraged to become members of the rural health networks in the areas in which their patients reside or receive services.

(c) ~~(4)~~ Network membership shall be available to all health care providers in the network service area if~~, provided that~~ they render care to all patients referred to them from other network members~~;~~ comply with network quality assurance, quality improvement, and utilization-management ~~and risk management~~ requirements; and~~,~~ abide by the terms and conditions of network provider agreements ~~in paragraph (11)(c), and provide services at a rate or price equal to the rate or price negotiated by the network~~.

(4) ~~(5)~~ NETWORK SERVICE AREAS.--Network service areas are ~~do~~ not required ~~need~~ to conform to local political boundaries or state administrative district boundaries. The geographic area of one rural health network, however, may not overlap the territory of any other rural health network.

(5) ~~(6)~~ NETWORK FUNCTIONS.-- Networks shall:

(a) Seek to develop linkages with ~~provisions for referral to~~ tertiary inpatient care, specialty physician care, and ~~to~~ other services that are not available in rural service areas.

(b) ~~(7) Networks shall~~ Make available health promotion, disease prevention, and primary care services, in order to improve the health status of rural residents and to contain health care costs.

~~(8) Networks may have multiple points of entry, such as through private physicians, community health centers, county health departments, certified rural health clinics, hospitals, or other providers; or they may have a single point of entry.~~

(c) ~~(9)~~ Encourage members through training and educational programs to adopt standards of care, and promote the evidence-based practice of medicine. Networks shall establish standard protocols, coordinate and share patient records, and develop patient information exchange systems in order to improve quality and access to services.

(d) Develop quality-improvement programs and train network members and other health care providers in the use of such programs.

(e) Develop disease-management systems and train network members and other health care providers in the use of such systems.

(f) Promote outreach to areas with a high need for services.

(g) Seek to develop community care alternatives for elders who would otherwise be placed in nursing homes.

(h) Emphasize community care alternatives for persons with mental health and substance abuse disorders who are at risk of being admitted to an institution.

(i) Develop and implement a rural health infrastructure development plan for an integrated system of care that is responsive to the unique local health needs and the area health care services market. Each rural health infrastructure development plan must address strategies to improve access to specialty care, train health care providers to use standards of care for chronic illness, develop disease-management capacity, and link to state and national quality-improvement initiatives. The initial development plan must be submitted to the Office of Rural Health for review and approval no later than July 1, 2007, and thereafter the plans must be updated and submitted to the Office of Rural Health every 3 years.

~~(10) Networks shall develop risk management and quality assurance programs for network providers.~~

(6)~~(11)~~ NETWORK GOVERNANCE AND ORGANIZATION.--

(a) Networks shall be incorporated as not-for-profit corporations under chapter 617, with articles of incorporation that set forth purposes consistent with this section ~~the laws of the state~~.

(b) Each network ~~Networks~~ shall have an independent ~~a~~ board of directors that derives membership from local government, health care providers, businesses, consumers, advocacy groups, and others. Boards of other community health care entities may not serve in whole as the board of a rural health network; however, some overlap of board membership with other community organizations is encouraged. Network staff must provide an annual orientation and strategic planning activity for board members.

(c) Network boards of directors shall have the responsibility of determining the content of health care

provider agreements that link network members. The written agreements between the network and its health care provider members must specify participation in the essential functions of the network and shall specify:

1. Who provides what services.

2. The extent to which the health care provider provides care to persons who lack health insurance or are otherwise unable to pay for care.

3. The procedures for transfer of medical records.

4. The method used for the transportation of patients between providers.

5. Referral and patient flow including appointments and scheduling.

6. Payment arrangements for the transfer or referral of patients.

(d) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member of a network board of directors, or its employees or agents, for any lawful action taken by them in the performance of their administrative powers and duties under this subsection.

(7) ~~(12)~~ NETWORK PROVIDER MEMBER SERVICES.--

(a) Networks, to the extent feasible, shall seek to develop services that provide for a continuum of care for all residents ~~patients~~ served by the network. Each network shall recruit members that can provide ~~include~~ the following core services: disease prevention, health promotion, comprehensive primary care, emergency medical care, and acute inpatient care. Each network shall seek to ensure the availability of comprehensive maternity care, including prenatal, delivery, and postpartum care for uncomplicated pregnancies, either directly,

by contract, or through referral agreements. Networks shall, to the extent feasible, develop local services and linkages among health care providers to ~~also~~ ensure the availability of the following services: ~~within the specified timeframes, either directly, by contract, or through referral agreements:~~

~~1. Services available in the home.~~

1.~~a.~~ Home health care.

2.~~b.~~ Hospice care.

~~2. Services accessible within 30 minutes travel time or less.~~

3.~~a.~~ Emergency medical services, including advanced life support, ambulance, and basic emergency room services.

4.~~b.~~ Primary care, including~~.~~

~~c.~~ prenatal and postpartum care for uncomplicated pregnancies.

5.~~d.~~ Community-based services for elders, such as adult day care and assistance with activities of daily living.

6.~~e.~~ Public health services, including communicable disease control, disease prevention, health education, and health promotion.

7.~~f.~~ Outpatient mental health ~~psychiatric~~ and substance abuse services.

~~3. Services accessible within 45 minutes travel time or less.~~

8.~~a.~~ Hospital acute inpatient care for persons whose illnesses or medical problems are not severe.

9.~~b.~~ ~~Level I obstetrical care, which is~~ Labor and delivery for low-risk patients.

10.~~c.~~ Skilled nursing services and~~,~~ long-term care, including nursing home care.

(b) Networks shall seek to foster linkages with out-of-area services to the extent feasible to ensure the availability of:

1.~~d.~~ Dialysis.

2.~~e.~~ Osteopathic and chiropractic manipulative therapy.

~~4. Services accessible within 2 hours travel time or less.~~

3.~~a.~~ Specialist physician care.

4.~~b.~~ Hospital acute inpatient care for severe illnesses and medical problems.

5.~~c.~~ ~~Level II and III obstetrical care, which is~~ Labor and delivery care for high-risk patients and neonatal intensive care.

6.~~d.~~ Comprehensive medical rehabilitation.

7.~~e.~~ Inpatient mental health ~~psychiatric~~ and substance abuse services.

8.~~f.~~ Magnetic resonance imaging, lithotripter treatment, oncology, advanced radiology, and other technologically advanced services.

9.~~g.~~ Subacute care.

(8) COORDINATION WITH OTHER ENTITIES.--

(a) Area health education centers and health planning councils shall participate in the rural health networks' preparation of development plans. The Department of Health may require written memoranda of agreement between a network and an area health education center or health planning council.

(b) Rural health networks shall initiate activities, in coordination with area health education centers, to carry out the objectives of the adopted development plan, including continuing education for health care practitioners performing functions such as disease management, continuous quality

improvement, telemedicine, long-distance learning, and the treatment of chronic illness using standards of care. As used in this section, the term "telemedicine" means the use of telecommunications to deliver or expedite the delivery of health care services.

(c) Health planning councils shall support the preparation of development plans through data collection and analysis in order to assess the health status of area residents and the capacity of local health services.

(d) ~~(b)~~ Networks shall actively participate with area health education center programs, whenever feasible, in developing and implementing recruitment, training, and retention programs directed at positively influencing the supply and distribution of health care professionals serving in, or receiving training in, network areas.

~~(c) As funds become available, networks shall emphasize community care alternatives for elders who would otherwise be placed in nursing homes.~~

~~(d) To promote the most efficient use of resources, networks shall emphasize disease prevention, early diagnosis and treatment of medical problems, and community care alternatives for persons with mental health and substance abuse disorders who are at risk to be institutionalized.~~

(e) ~~(13)~~ ~~TRAUMA SERVICES.~~--In those network areas having ~~which have~~ an established trauma agency approved by the Department of Health, the network shall seek the participation of that trauma agency ~~must be a participant in the network~~. Trauma services provided within the network area must comply with s. 395.405.

(9) ~~(14)~~ NETWORK FINANCING.--

(a) Networks may use all sources of public and private funds to support network activities. Nothing in this section prohibits networks from becoming managed care providers.

(b) The Department of Health shall establish grant programs to provide funding to support the administrative costs of developing and operating rural health networks.

(10) NETWORK PERFORMANCE STANDARDS.--The Department of Health shall develop and enforce performance standards for rural health network operations grants and rural health infrastructure development grants.

(a) Operations grant performance standards must include, but are not limited to, standards that require the rural health network to:

1. Have a qualified board of directors that meets at least quarterly.

2. Have sufficient staff who have the qualifications and experience to perform the requirements of this section, as assessed by the Office of Rural Health, or a written plan to obtain such staff.

3. Comply with the department's grant-management standards in a timely and responsive manner.

4. Comply with the department's standards for the administration of federal grant funding, including assistance to rural hospitals.

5. Demonstrate a commitment to network activities from area health care providers and other stakeholders, as described in letters of support.

(b) Rural health infrastructure development grant performance standards must include, but are not limited to, standards that require the rural health network to:

1. During the 2006-2007 fiscal year develop a development plan and, after July 1, 2007, have a development plan that has been reviewed and approved by the Office of Rural Health.

2. Have two or more successful network-development activities, such as:

a. Management of a network-development or outreach grant from the federal Office of Rural Health Policy;

b. Implementation of outreach programs to address chronic disease, infant mortality, or assistance with prescription medication;

c. Development of partnerships with community and faith-based organizations to address area health problems;

d. Provision of direct services, such as clinics or mobile units;

e. Operation of credentialing services for health care providers or quality-assurance and quality-improvement initiatives that, whenever possible, are consistent with state or federal quality initiatives;

f. Support for the development of community health centers, local community health councils, federal designation as a rural critical access hospital, or comprehensive community health planning initiatives; and

g. Development of the capacity to obtain federal, state, and foundation grants.

(11) ~~(15)~~ NETWORK IMPLEMENTATION.--As funds become available, networks shall be developed and implemented in two phases.

(a) Phase I shall consist of a network planning and development grant program. Planning grants shall be used to organize networks, incorporate network boards, and develop

formal provider agreements as provided for in this section. The Department of Health shall develop a request-for-proposal process to solicit grant applications.

(b) Phase II shall consist of a network operations grant program. As funds become available, certified networks that meet performance standards shall be eligible to receive grant funds to be used to help defray the costs of rural health network infrastructure development, patient care, and network administration. Rural health network infrastructure development includes, but is not limited to: recruitment and retention of primary care practitioners; enhancements of primary care services through the use of mobile clinics; development of preventive health care programs; linkage of urban and rural health care systems; design and implementation of automated patient records, outcome measurement, quality assurance, and risk management systems; establishment of one-stop service delivery sites; upgrading of medical technology available to network providers; enhancement of emergency medical systems; enhancement of medical transportation; formation of joint contracting entities composed of rural physicians, rural hospitals, and other rural health care providers; establishment of comprehensive disease-management programs that meet Medicaid requirements; establishment of regional quality-improvement programs involving physicians and hospitals consistent with state and national initiatives; establishment of speciality networks connecting rural primary care physicians and urban specialists; development of regional broadband telecommunications systems that have the capacity to share patient information in a secure network, telemedicine, and long-distance learning capacity; and linkage between training

programs for health care practitioners and the delivery of health care services in rural areas ~~and development of telecommunication capabilities~~. A Phase II award may occur in the same fiscal year as a Phase I award.

(12) ~~(16)~~ CERTIFICATION.--For the purpose of certifying networks that are eligible for Phase II funding, the Department of Health shall certify networks that meet the criteria delineated in this section and the rules governing rural health networks. The Office of Rural Health in the Department of Health shall monitor rural health networks in order to ensure continued compliance with established certification and performance standards.

(13) ~~(17)~~ RULES.--The Department of Health shall establish rules that govern the creation and certification of networks, the provision of grant funds under Phase I and Phase II, and the establishment of performance standards ~~including establishing outcome measures~~ for networks.

========== T I T L E A M E N D M E N T ==========

Remove line(s) 24-25 and insert:

and health planning councils; establishing performance standards; establishing a grant program for funding rural

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2a (for drafter's use only)

Bill No. **HB 7215**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Council/Committee hearing bill: Health & Families Council

Representative(s) Robaina offered the following:

Amendment to Amendment 2 (with directory and title amendments)

Remove line(s) 265 and insert:

(c) Rural health networks shall contract with local health planning councils to support the preparation

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3 (for drafter's use only)

Bill No. **HB 7215**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Council/Committee hearing bill: Health & Families Council

Representative(s) Garcia offered the following:

Amendment (with directory and title amendments)

Remove line(s) 708-791 and insert:

to the department for a capital improvement grant to acquire, repair, improve, or upgrade systems, facilities, or equipment. The grant application must provide information that includes:

(a) A statement indicating the problem the rural hospital proposes to solve with the grant funds.~~;~~

(b) The strategy proposed to resolve the problem.~~;~~

(c) The organizational structure, financial system, and facilities that are essential to the proposed solution.~~;~~

(d) The projected longevity of the proposed solution after the grant funds are expended.~~;~~

(e) Evidence of participation in a rural health network as defined in s. 381.0406 and evidence that the application is consistent with the required rural health infrastructure development plan;

(f) Evidence that the rural hospital has difficulty in obtaining funding or that funds available for the proposed solution are inadequate.~~;~~

(g) Evidence that the grant funds will assist in maintaining or returning the hospital to an economically stable condition or enable the transition to the status of rural primary care hospital or that any plan for closure of the hospital or realignment of services will involve development of innovative alternatives for the provision of needed ~~discontinued~~ services.~~;~~

(h) Evidence of a satisfactory record-keeping system to account for grant fund expenditures within the rural county.~~;~~

(i) ~~A rural health network plan that includes a description of how the plan was developed, the goals of the plan, the links with existing health care providers under the plan,~~ Indicators quantifying the ~~hospital's~~ financial status ~~well-being~~, measurable outcome targets, and ~~the~~ current physical and operational condition of the hospital.

(3)~~(2)~~ Each rural hospital as defined in s. 395.602 shall receive a minimum of $100,000 annually, subject to legislative appropriation, upon application to the Department of Health, for projects to acquire, repair, improve, or upgrade systems, facilities, or equipment.

(4)~~(3)~~ Any remaining funds shall annually be disbursed to rural hospitals in accordance with this section. The Department of Health shall establish, by rule, criteria for awarding grants ~~for any remaining funds~~, which must be used exclusively for the support and assistance of rural hospitals as defined in s. 395.602, including criteria relating to the level of charity ~~uncompensated~~ care rendered by the hospital, the financial

status of the hospital, the performance standards of the hospital, the participation in a rural health network as defined in s. 381.0406, and the proposed use of the grant by the rural hospital to resolve a specific problem. The department must consider any information submitted in an application for the grants in accordance with subsection (2) ~~(1)~~ in determining eligibility for and the amount of the grant~~, and none of the individual items of information by itself may be used to deny grant eligibility~~.

(5) Financially distressed rural hospitals may receive preferential assistance under the capital improvement grant program to provide planning, management, and financial support. To receive this assistance the hospital must:

(a) Provide additional information that includes:

1. A statement of support from the board of directors of the hospital, the county commission, and the city commission.

2. Evidence that the rural hospital and the community have difficulty obtaining funding or that funds available for the proposed solution are inadequate.

(b) Agree to be bound by the terms of a participation agreement with the agency, which may include:

1. The appointment of a health care expert under contract with the agency to analyze and monitor the hospital operations during the period of distress.

2. The establishment of minimum standards for the education and experience of the managers and administrators of the hospital.

3. The oversight and monitoring of a strategic plan to restore the hospital to an economically stable condition or transition to an alternative means to provide services.

4. The establishment of a board orientation and development program.

5. The approval of any facility relocation plans.

(6) ~~(4)~~ The department shall ensure that the funds are used solely for the purposes specified in this section. The total grants awarded pursuant to this section shall not exceed the amount appropriated for this program.

========== T I T L E A M E N D M E N T ==========

Remove line(s) 43-47 and insert:

; modifying the conditions for receiving a grant; establishing an assistance program within the department for financially distressed rural hospitals; providing purpose of the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

Bill No. **HB 7215**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Council/Committee hearing bill: Health & Families Council

Representative(s) Garcia offered the following:

Amendment (with directory and title amendments)

Remove line(s) 792-1056

========== T I T L E A M E N D M E N T ==========

Remove line(s) 50-77 and insert:

providing for contents thereof; creating s.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 5 (for drafter's use only)

Bill No. **HB 7215**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Council/Committee hearing bill: Health & Families Council

Representative(s) Garcia offered the following:

Amendment (with directory and title amendments)

Remove line(s) 1069-1113 and insert:

(2) The agency is authorized to provide funding through a grant program to entities seeking to establish rural provider service networks that have demonstrated an interest and have experience in organizing rural health care providers for this purpose.

(3) Entities eligible for rural provider service network development grants must:

(a) Have a written agreement signed by prospective members, 45 percent of whom must be providers in the targeted service area.

(b) Include all rural hospitals, at least one federally qualified health center, and one county health department located in the service area.

(c) Have a defined service area.

(4) Each applicant for this funding shall provide the agency with a detailed written proposal that includes, at a

minimum, a statement of need; a defined purpose; identification and explanation of the role of prospective partners; a signed memorandum of agreement or similar document attesting to the role of prospective partners; documented actions related to provider service network development; measurable objectives for the development of clinical and administrative infrastructure; a process of evaluation; and a process for developing a business plan and securing additional funding.

(5) The agency is authorized to grant preferential funding to a rural provider service network based on the number of rural counties within the network's proposed service area that are Medically Underserved Areas or Health Professional Shortage Areas as defined by the Health Resources Services Administration, Office of Rural Health Policy, and based on whether the provider service network has a principal place of business located in a rural county in the state.

(6) The agency is granted authority to develop rules pursuant to s. 120.53(1) and 120.54 necessary to implement this section.

========== T I T L E A M E N D M E N T ==========

Remove line(s) 79-80 and insert:

Network Development Program; providing purposes; authorizing the agency to provide

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 6 (for drafter's use only)

Bill No. **HB 7215**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Council/Committee hearing bill: Health & Families Council

Representative(s) Garcia offered the following:

Amendment (with directory and title amendments)

Remove line(s) 1153-1239

========== T I T L E A M E N D M E N T ==========

Remove line(s) 84-87 and insert:

providers; authorizing the agency to adopt rules; amending ss. 408.07,

Amendment to HB 7215 by Rep. Richardson

Amendment #7 establishes the Office of Minority Health in the Department of Health to address health disparities in the state, by coordinating existing efforts and promoting state and local initiatives.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **7215**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Health & Families Council

Representative(s) Richardson offered the following:

Amendment (with title amendment)

Between line(s) 1295 and 1296, insert:

Section 15. Section 381.7366, Florida Statutes, is created to read:

381.7366 Office of Minority Health; legislative intent; duties.--

(1) LEGISLATIVE INTENT.--The Legislature recognizes that despite significant investments in health care programs certain racial and ethnic populations suffer disproportionately with chronic diseases when compared to non-Hispanic whites. The Legislature intends to address these disparities by developing programs that target causal factors and recognize the specific health care needs of racial and ethnic minorities.

(2) ORGANIZATION.--The Office of Minority Health is established within the Department of Health. The office shall be headed by a director who shall report directly to the Secretary of Health.

(3) DUTIES.--The office shall:

(a) Protect and promote the health and well-being of racial and ethnic populations in the state.

(b) Focus on the issue of health disparities between racial and ethnic minority groups and the general population.

(c) Coordinate the department's initiatives, programs, and policies to address racial and ethnic health disparities.

(d) Communicate pertinent health information to affected racial and ethnic populations.

(e) Collect and analyze data on the incidence and frequency of racial and ethnic health disparities.

(f) Promote and encourage cultural competence education and training for healthcare professionals.

(g) Serve as a clearinghouse for the collection and dissemination of information and research findings relating to innovative approaches to the reduction or elimination of health disparities.

(h) Dedicate resources to increase public awareness of minority health issues.

(i) Seek increased funding for local innovative initiatives and administer grants designed to support initiatives that address health disparities and that can be duplicated.

(j) Provide staffing and support for the Closing the Gap grant advisory council.

(k) Coordinate with other agencies, states, and the Federal Government to reduce or eliminate health disparities.

(l) Collaborate with other public healthcare providers, community and faith-based organizations, the private healthcare system, historically black colleges and universities and other minority institutions of higher education, medical schools, and

other health providers to establish a comprehensive and inclusive approach to reducing health disparities.

(m) Encourage and support research into causes of racial and ethnic health disparities.

(n) Collaborate with health professional training programs to increase the number of minority healthcare professionals.

(o) Provide an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the activities of the office.

(4) RESPONSIBILITY AND COORDINATION.--The office and the department shall direct and carry out the duties established under this section and shall work with other state agencies in accomplishing these tasks.

========== T I T L E A M E N D M E N T ==========

Remove line(s) 90 and insert:
emergency care hospitals; creating s. 381.7366, F.S.; establishing the Office of Minority Health; providing legislative intent; providing for organization, duties, and responsibilities; requiring a report to the Governor and Legislature; providing an effective date.